

HARRISON TOWNSHIP BZA
FEBRUARY 8, 2022
ORGANIZATIONAL/PUBLIC HEARING

Members present: Ricky Biniker, Ryan Bailey, John McGowan, Jeremy Nestor, Jack Treinish, Gerald Saffo and Stephen Clegg. Mr. Treinish will participate and vote during the Organizational Meeting but will step off the Board for the Public Hearing due to being an adjacent property owner. Mr. Saffo will be a voting member in place of Mr. Treinish.

Also present: Valerie Hans, Zoning Inspector, Vickie Noble, Zoning Secretary and Carolyn Carnes (Licking County Prosecutor's Office).

Present for the Public Hearing: Marilyn Martin of Anderson Reporting.

Guests: Connie J. Klema, Brian Thompson, Deb Moore, Brandon Brumbaugh, Noah and Tracy Kelley, Tom Wheeler, Adrian and Natalie Becker, J. Cadamy, Randy Colvin, Carel and Bonnie Ellinger, Dawn Williams, Chris Chappo, Mary Iden, Greg Clark, Steve Fazekas, Penny Fazekas.

Vickie Noble called the meeting to order at 6:30 p.m. with all standing for the Pledge of Allegiance.

Ms. Noble called for nominations for Chair for the 2022 board.

Mr. Nestor nominated Ryan Bailey. Mr. Bailey declined the nomination.

Mr. Treinish nominated Ricky Biniker. Mr. Nestor seconded.

Vote: Ricky Biniker-yes, Ryan Bailey-yes, John McGowan-yes, Jeremy Nestor-yes, Jack Treinish-yes

Nominations were open for Vice Chair

Mr. Biniker nominated Ryan Bailey. Mr. McGowan seconded.

Vote: Ricky Biniker-yes, Ryan Bailey-yes, John McGowan-yes, Jeremy Nestor-yes, Jack Treinish-yes

The board agreed to keep the same meeting schedule. The second and fourth Tuesday of each month are set aside as meeting dates. Alternate meeting dates will be scheduled if necessary.

The board would like the working session to follow the Public Hearing. All dates are on an as needed basis. This was approved with a unanimous aye vote.

The board discussed the procedures for a meeting/hearing.

The motions will follow Robert's Rules of Order. This was approved with a unanimous aye vote.

Mr. Biniker moved to approve the minutes from December 28, 2021. Mr. Bailey seconded.

The motion passed with unanimous ayes.

Mr. Biniker closed the Organizational meeting at 6:36 p.m.

PUBLIC HEARING

Mr. Biniker called the Public Hearing to order at 7:00 p.m. with all standing for the Pledge of Allegiance.

Referring to Ohio Revised Code Section 121.22, Line G-3, Mr. Biniker moved for the board, including Alternate Stephen Clegg, to go into Executive Session to meet with legal counsel. Mr. Saffo seconded.

Vote: Ricky Biniker-yes, Ryan Bailey-yes, John McGowan-yes, Jeremy Nestor-yes, Gerald Saffo-yes

At 7:26 p.m. Mr. Biniker moved to come out of Executive Session. Mr. McGowan seconded.

Vote: Ricky Biniker-yes, Ryan Bailey-yes, John McGowan-yes, Jeremy Nestor-yes, Gerald Saffo-yes

Mr. Biniker asked Ms. Noble to read the application.

Mr. Biniker addressed the audience with the following statement:

This re-hearing has been called to hear the street frontage variance application filed by Front Porch Investments, LLC. The initial hearing took place on August 24, 2021, upon the application of Front Porch Investments, LLC, for a variance from the Zoning Resolution. This hearing was tabled and reconvened on September 14, 2021, ending in a 2-2 vote to deny. The fifth member of the Board had recused himself from the vote since he was an adjoining property owner on this application. The failure to obtain three (3) concurring votes is deemed a denial.

Front Porch Investments, LLC filed an appeal in the Licking County Common Pleas Court regarding this ruling. Per the settlement agreement reached between the parties, the re-hearing was supposed to have taken place on or before January 15, 2022. Due to extenuating circumstances outside of the control of any of the parties, which included the inability to seat a full board due to COVID, the parties agreed to reschedule this hearing beyond the January 15, 2022, deadline. All parties are in agreement that this hearing is in compliance with the terms of the settlement agreement.

Front Porch Investments, LLC, is seeking a variance from the following sections of the Zoning Resolution:

- a. Article 10.2 Street Frontage as determined by Article 13.9(1)

For the R-15 zoned lots fronting on Cherokee Trail:

To permit 2 lots to have less than 100' width at their street frontage and to have 16 feet.

To permit 6 lots to have less than 100' width at their street frontage and to have 15 feet.

b. Article 10.2 Street Frontage as determined by Article 15.63(1)

For the B-1/R-15 zoned lot fronting on Cherokee Trail:

To permit one lot to have less than 150' width at its street frontage and to have 16 feet.

Those are the only issues before the Board today.

This hearing is being conducted pursuant to the Board's authority as set forth in Section 519.14 of the Ohio Revised Code.

This is a public meeting of the Board and everyone here is welcome. But this is a hearing on a specific issue, and there will not be an opportunity for public comment. We ask that observers in the audience please remain quiet and respectful throughout the hearing.

Mr. Biniker introduced the Board members and other participants present for the public hearing.

Connie Klema addressed the board.

Ms. Klema said the application is for 50 acres that was previously a golf course. She discussed the difference between Major and Minor Subdivisions and the requirements for both. She presented the board with copies of Driveway Permit Applications for the North Drive and the South Drive that were submitted to Licking County showing the location approved.

Ms. Klema stated that nine houses would not create additional storm water drainage.

Ms. Klema presented the board with a drawing showing a subdivision layout with 78 lots.

Ms. Klema made reference to two variances granted by the Harrison Township BZA. According to Ms. Klema these two are similar to what is currently being requested. One was on 310 and was approved with conditions in 2018. The second was on York Road and was approved in 2017. She also provided the board with maps showing both properties.

She stated that her clients want big lots, not a subdivision. She said the clients can satisfy all the county requirements. She stated that the question of the variance request being substantial should be looked at as what is good for the particular area.

Mr. Biniker asked Ms. Hans to give her report.

Ms. Hans Report

February 8, 2022

Harrison Township Zoning Inspector's report & recommendation for variance application for Cherokee Trail (south and west of Comanche Ct.), Granville, Ohio 43023 submitted by Connie J. Klema. This 49.43 +/- acre lot has 145.31 +/- feet of total road frontage on Cherokee Trail, spaced between two access points 50 feet and 95.31 feet, respectively.

The applicant's client is proposing to subdivide the 49.43 +/- acre lot into nine (9) proposed lots. The proposed site is primarily zoned R-15 with a small amount of B-1 zoned property that is located at the northwest corner of the site. They are proposing the following lot split scenario. The 50 feet of frontage on Cherokee Trail will be divided into three lots each with 16 +/- feet of frontage. The 95.31 +/- feet of frontage on Cherokee Trail will be divided into 6 lots each with 15 +/- feet of frontage. All 9 lots would be 5 + acres. The three (3) lots that are proposed to have 16 +/- feet of road frontage would utilize a shared /common driveway. The six (6) lots that are proposed to have 15 +/- feet of road frontage would utilize a second shared/common driveway.

*This recommendation will follow the requirements of the Harrison Township Zoning Resolution Section **4.12 2. a-g Area Variance**. The Board of Zoning Appeals shall review the particular facts and circumstances of this area variance in terms of the following standards and shall find adequate answers to the questions that establish the criteria for establishing practical difficulty in the use of the property.*

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.

This property could still yield a reasonable return and be used for a residential purpose as it is in the R-15 and B-1 districts and could be developed as a subdivision without the need for variances.

b. whether the variance is substantial.

The property is zoned Residential (R-15). The R-15 zoning district requires a minimum lot width (road frontage) of 100 feet. Two (2) of the proposed lots which are entirely in the R-15 district have 16 feet of lot width which represents an 84% variance. Six (6) of the proposed lots which are entirely in the R-15 district have 15 feet of lot width which represents an 85% variance. The last proposed lot which is primarily in the B-1 district with a small amount of R-15 property to allow for a driveway into the lot is 16 feet in lot width which represents a 90% variance if calculated by the B-1 minimum standard of 150 feet of lot width. These variances are substantial as they reflect an 84% (84 foot), 85% (85 foot) and 90% (134 foot) variances from the 100-foot minimum lot frontage in the R-15 and 150-foot minimum lot frontage in the B-1 districts.

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.

The essential character of the neighborhood would be substantially altered as the neighborhood would suffer a substantial detriment from this project proceeding without going through subdivision regulations, technical review committee (TRC), stormwater, engineering, and emergency services review. The property

Harrison Twp. Board of Zoning Appeals
February 8, 2022

Final - Approved

being proposed for development already has issues with runoff into the neighboring subdivision. If this property were developed as a subdivision, it would go through the proper stormwater review process to manage and potentially mitigate the water runoff issues on site. In the present configuration, this project would move forward with limited review and regard for managing the stormwater issues.

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

If granted the variance, the proposed lots would have shared driveways with no oversight on turning radii for governmental service delivery vehicles. This could affect the delivery of those services to the newly created lots. However, the existing neighborhood should not be affected.

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

The property owner has developed several lots and built several homes in Harrison Township over the past 5 years; they are familiar with the rules and requirements for lot sizes, widths, and setbacks.

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

Yes, the property owner could develop this property as a subdivision.

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

The spirit and intent behind the zoning requirement would not be observed, and substantial justice would not be done by granting the variance as the existing residential uses in the neighborhood were developed as a subdivision with the rules and requirements of our zoning code being met. The proposed lots would change the character of that neighborhood and bypass the regulations for having appropriate lot frontage, subdivision, technical, stormwater, engineering, and emergency services review.

Respectfully submitted, Valerie L. Hans Harrison Township Zoning Inspector

Mr. Bailey stated he is in favor of big lots but is concerned about the property located in the middle of the two proposed driveway locations. He asked Ms. Klema if the applicants had considered buying the property. Ms. Klema answered yes.

Mr. Bailey also asked about the property on Broad Street and if her client owned it. Ms. Klema said her client did own the property, but it was a separate parcel and not part of this development.

At 8:07 p.m. referring to Ohio Revised Code Section 121.22, Line G-3 Mr. Biniker moved for the board, including Alternate Stephen Clegg, to go into Executive Session to meet with legal counsel.

Vote: Ricky Biniker-yes, Ryan Bailey-yes, John McGowan-yes,
Jeremy Nestor-yes, Gerald Saffo-yes

At 8:16 p.m. Mr. Biniker moved to come out of Executive Session. Mr. McGowan seconded.

Vote: Ricky Biniker-yes, Ryan Bailey-yes, John McGowan-yes,
Jeremy Nestor-yes, Gerald Saffo-yes

Mr. McGowan asked Ms. Klema about buying the property located between the two proposed driveway locations. Ms. Klema said those details were private and could not be disclosed.

Mr. Nestor asked Ms. Klema to share the conditions that were approved for the 2018 variance application on 310.

Mr. Saffo and Mr. Bailey questioned the water issues. Ms. Klema said the nine houses would not create any problems.

Mr. Bailey asked if there could be one driveway location instead of two. Ms. Klema said the county would be against this.

Mr. Saffo asked if the property in the middle of the two driveway locations was not there could the driveways be spread out. Ms. Klema answered that the applicants do not own this property.

Possible conditions were discussed. Mr. Biniker stated that according to Article 4:12 the variance request is very substantial.

Mr. Nestor moved to approve the Variance with the following conditions:

1. The driveways will accommodate two vehicles to pass.
2. The West Licking Joint Fire Department standards will be followed.
3. Cannot create additional storm water.
4. 50' no build zone from rear of property lines on Cherokee.
5. 24' driveway easement depth to rear of adjacent property with spot 15' off road for trash cans.
6. All regulations of the Harrison Township Zoning Resolution will be followed.

Vote: Ricky Biniker-no, Ryan Bailey-no, John McGowan-no, Jeremy Nestor-yes, Gerald Saffo-yes
The application was not approved.

At 8:48 p.m. Mr. Biniker closed the Public Hearing.

Respectfully submitted

Vickie Noble, Zoning Secretary

Ricky Biniker, Chair

The Public Hearing was professionally recorded by Anderson Reporting