

HARRISON TOWNSHIP
BZA
August 30, 2022

Members present: Ricky Biniker, John McGowan, Jeremy Nestor, Jack Treinish and Alternate Stephen Clegg. Absent: Ryan Bailey and Gerald Saffo.

Alternate Stephen Clegg will be a voting member due to the absence of Ryan Bailey.

Also present : Valerie Hans- Zoning Inspector, Vickie Noble- Zoning Secretary and Marilyn Martin of Anderson Reporting.

Guests: Paul Gardner, Bonnie, Kim and James Reichgott, Porter “Chip” Welch (attorney for applicants), Mark Altier (legal counsel from Licking County prosecutors’ office), W Wright, Loryn and Zack Shull, Lori Blythe.

The purpose of the Public Hearing is to consider a Variance Application submitted by James and Kimberly Reichgott. The applicants are requesting a variance to remodel a detached garage into living space. The garage is located at 4180 Outville Rd. SW Granville, OH 43023.

Parcel # 025-069102-00.002 Application # 2022-03

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

All who wished to speak were sworn in by the court reporter.

Mr. Biniker read the application and attached information. He asked if the applicant had anything to add.

Attorney Welch presented the board with pictures of 4180 Outville Road and asked the applicant to explain what was shown in each of the pictures.

Mr. Reichgott stated that he would lose access to the back yard if required to attach the house to the garage unless doors are added. He also stated that a four-seasons room would cost \$70,000.

Mrs. Reichgott said she is aware that one home is the goal but does not think a hallway will serve a purpose and will cut off access from the driveway to the backyard. It would also have a financial impact.

Mr. Welch said the Reichgotts have a unique situation and that it would have no greater impact than if the mother-in-law lives in the house. He said if required to connect to the house it would hinder first responders. He added that the spirit of the zoning resolution would be best served by granting the variance and the Reichgotts would be willing to execute deed and time restrictions.

Mr. Biniker asked for the Zoning Inspector’s report.

Ms. Hans presented her report

August 30, 2022

Harrison Township Zoning Inspector's report and recommendation for a variance application for 4180 Outville Rd., S.W., Granville, Ohio 43023 submitted by James R. & Kimberly I. Reichgott. The applicants converted a detached garage into an additional dwelling unit on their property.

*This recommendation will follow the requirements of the Harrison Township Zoning Resolution Section **4.12 1. a-d Use Variance**. The Board of Zoning Appeals shall review the particular facts and circumstances of this use variance in terms of the following standards and shall find adequate answers to the questions that establish the criteria for establishing unnecessary hardship in the use of the property.*

Article 4.12 1. Use Variance states:

"The Board of Zoning Appeals may authorize upon appeal in specific cases a variance from the terms of this Resolution as will not be contrary to the public interest where, owing to special conditions of the land, a literal enforcement of the provisions of this Resolution would result in unnecessary hardship. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered ground for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provision of this Resolution would result in unnecessary hardship.

The factors to be considered and weighed in determining whether a property owner seeking a use variance has encountered unnecessary hardship in the use of the property but not are not limited to:"

a. The variance will not be contrary to public interest.

The Harrison Township Zoning Resolution does not permit multifamily uses in the B-1 zoning district and the variance is requesting to establish two residences on the same lot.

b. Owing to special conditions, literal enforcement of the Resolution will result in unnecessary hardship.

Unnecessary Hardship in Article 3 of the Harrison Township Zoning Resolution is defined as:

"The general nature of an unnecessary hardship is that the property owner, unless granted the use variance, would be unable to use the property for the purposes for which it is zoned. To amount to an unnecessary hardship, there must be a showing that all permitted uses are not economically feasible or cannot be efficiently continued. Thus, when the restriction amounts to a virtual confiscation of property where the owner is deprived of the beneficial

use of the land, an unnecessary hardship exists. It is well to remember, however, that the mere fact that one's property can be put to a more profitable use does not, in itself, establish an unnecessary hardship where less profitable alternatives are available within the zoning district."

Thus, there are no special conditions or unnecessary hardship that I am aware of for this application.

c. The spirit of the Zoning Resolution shall be observed.

This variance request does not support the spirit of the zoning resolution as it would be adding an additional dwelling unit to a lot in the B-1 zoning district where more than one dwelling unit per lot is not permitted. Furthermore, this detached garage presently sits approximately 3.5' from the west (rear) property line and 4.5' from the south (side) property line. Current side and rear setbacks are 15' per side and 15' in the rear for accessory buildings in this district.

d. Substantial justice shall be done.

Permitting two single family dwellings on one lot is not permitted in the B-1 zoning district in Harrison Township.

I hope that this information will help you in determining if this application presents an unnecessary hardship as defined by the Harrison Township Zoning Resolution.

Respectfully submitted, Valerie L. Hans Harrison Township Zoning Inspector

Ms. Hans added that the board had been given copies of the Home Occupation definition from the Harrison Township Zoning Resolution (the narrative with the application made reference to home-based business) and that she had copies of various correspondence from Licking County offices concerning 4180 Outville Road.

Jeremy Nestor asked about the 3.5' setback on the detached garage. Ms. Hans said the garage was built before the current regulations. Mr. Welch said the garage existed when the Reichgotts bought the property.

Mr. Nestor asked about zoning permits. Ms. Hans said Mr. Reichgott came into the office and asked about requirements for putting in a bathroom in the detached garage. Ms. Hans asked if he was putting in a living space. He said he was not. She referred him to the Licking County Health Department for permits. In the fall of 2021, following complaints, Ms. Hans contacted the Licking County Building Code to find out if permits were taken out to create a living space. Building Code did not have any permits. In mid-November 2021 Ms. Hans noticed that someone appeared to be living in the detached garage. Neighbors confirmed this. November 29, 2021 a Violation notice was sent to the Reichgotts. In early December Mr. Reichgott came into the

office to find out his options and what needed to be done for correction. After a few days Mrs. Reichgott came into get a permit to connect the garage to the main house permanently.

Mr. Nestor asked about the permit for the four-seasons room. Ms. Hans said she issued a permit and instructed the applicant to go to Building Code to apply to convert the garage and add a four-seasons room.

Mr. Clegg asked about the emails and details Ms. Hans has from the County.

Ms. Hans read correspondence from Licking County

- Email from Troy Warnock, Building Code Director, verifying no permits were issued

- Email from Erin Mitchell, Permit Specialist with a list of required items that were not submitted therefore no permit was issued.

- From Alex Ratai, Residential Plans Examiner - A list of areas/items that were insufficient and needed to be corrected.

- A copy of the plumbing permit from Licking County Health Department.

Mr. Welch said he has an issue with the County Building Code vs. the Township Zoning.

Mr. Treinish asked about deed restrictions. Ms. Hans said zoning cannot enforce deed restrictions. Mark Altier added that it may be possible but has not seen it done.

Mr. Clegg asked if Mr. Reichgott's mother was living in the detached garage now and if so, for how long. Mr. Reichgott said yes approximately one year, or 8-10 months.

Mr. Clegg asked about the section of the detached garage that was used as living space. Mr. Reichgott showed the board pictures from his phone showing a blueprint of the layout. He sent the pictures by email and text to the zoning inspector for the record.

Mr. Nestor asked why the construction was done without permits. Mr. Reichgott said he had friends and contractors that said he did not need permits. He also said in the past the contractors had applied for the permits, and he assumed the contractors would file for any necessary permits.

Mr. Altier asked why he started the process before applying for a variance. Mr. Reichgott said he did not know he needed a variance. Ms. Hans added again the Reichgotts request and her explanation.

Mr. Reichgott said he thought a walkway would work.

Mr. Biniker asked about permits issued. Mr. Reichgott said he has a permit for the plumbing. Mr. Biniker asked if the garage plumbing was separate from the house. Mr. Reichgott said both were tied together.

Mr. Biniker moved to Public Comment

Paul Gardner, a neighbor at 4188 Outville Road, had a timeline of the process. He stated that he spoke with the Reichgotts and asked what they were planning. He was told they were doing a standalone apartment. He said he asked the Reichgotts if they had permits. He also stated that when the sewer work was done his yard was destroyed. Mr. Reichgott said this had been taken care of. Mr. Gardner said it had not been taken care of. Mr. Gardner is also concerned about a transformer that is above the detached garage.

Mr. Biniker asked why the front attached garage was not converted instead of the detached garage. Mr. Reichgott said his mother wanted her own space and that they had not really thought about the attached garage.

At 7:39 p.m. Jeremy Nestor moved to recess for private deliberation to discuss the application. Stephen Clegg seconded. The motion passed with unanimous ayes.

At 7:52 p.m. Mr. Biniker moved to go back in session. Mr. Nestor seconded. The motion passed with unanimous ayes.

Mr. Clegg said he felt most questions had been answered. No other board member had any questions.

Stephen Clegg moved to approve the variance application as written. Ricky Biniker seconded.

Vote: Ricky Biniker-No, John McGowan-No,
Jeremy Nestor-No, Jack Treinish-No, Stephen Clegg-No.
The application was not approved.

Mr. Biniker closed the public hearing at 7:54 p.m.

A working session began at 7:56 p.m.

The board will meet September 1, 2022 at 12:00 p.m. to approve minutes.

Ms. Hans gave the board updates on zoning issues and possible upcoming applications.

Mr. Clegg moved to approve the June 10, 2022 minutes. Mr. Biniker seconded.
The motion passed with unanimous ayes.

Mr. Biniker closed the working session at 8:13 p.m.

Respectfully submitted

Vickie Noble, Zoning Secretary

Ricky Biniker, Chair

The Public Hearing was professionally recorded by Anderson Reporting