

Town of Milton Board of Adjustment

Minutes of June 15, 2021

Purpose of Meeting:

Deliberations and possible votes on three variance requests.

Attendees: Board Members:

Steve Crawford – Chairman

Allen Sangree - Secretary

Walter Tydings

Robert Gray

Bill Byrnes

Town Officials:

Thomas Quass - Project Coordinator

Seth Thompson - Town Attorney

Opening of meeting:

Steve Crawford opened the meeting at 7:00 pm

Introduction of new board members Robert Gray and Bill Byrnes.

Rollcall of members present -Present- Steve Crawford

Walter Tydings

Allen Sangree

Robert Gray

Bill Byrnes

Motion to approve agenda for tonight's meeting

No additions or corrections to the agenda.

Mr. Sangree - motion to approve tonight's agenda as written

Mr. Tydings - second

All in favor 5/0

Review and approval of minutes of 11/16/2021

No additions or corrections to past minutes

Mr. Tydings –Motion to approve minutes on 9/29/2020

Mr. Sangree –Second

All in favor 3/0

Two abstentions-Mr. Gray and Mr. Byrnes recused themselves since they were not present at the last meeting.

Acknowledgment of the two new members to the Board

Brief introductions by Mr. Gray and Mr. Byrnes.

Old business:

No old business to discuss.

New Business:

Seth Thompson gave a brief overview of process and decorum when considering a variance, guiding tonight's proceedings.

1. **Randall and Stacia Preston request:** - Randall Preston

Mr. Crawford reviewed background information provided by the town, followed by an explanation from Mr. Quass on why he denied the initial request. Mr. Thompson explained how the town defines the front yard referencing to 220-6 definition of front yard vs back yard. Street right-of-way establishes front yard.

Mr. Preston explained the uniqueness of this particular lot especially in relation to the pond and what one would consider front yard vs rear yard. A question was asked why not reposition the house closer to the road, which is not a consideration in Mr. Preston's judgment for practical and aesthetic reasons. There were some concerns that the accessory building would become another dwelling unit to which Mr. Preston assured the Board he would do whatever was necessary to the accessory building to make it code compliant. The surrounding properties, except for one, are similar in size and design, with accessory buildings in the front yard. 4 of the 5 similar properties have grandfathered nonconforming use status. One property was mistakenly given a permit by the Town despite this same code violation.

Conditions peculiar to this property:

The main condition particular to this property is the pond boarding on the Southside while the road which establishes the front of the property is to the north. This creates some building placement issues due to the sightlines.

Public Comments:

Libby Zando, 210 Chandler Street had two questions, possible parking issues on Lavinia Street and lot design issues. It was established parking would not be an issue and a previous owner did the subdivision of the land.

Public hearing closed:

Steve led the Board through a variance checklist which was provided to each member. Working through the checklist each member had the opportunity to comment. A question was asked if the Board could put restrictions on the variance to which Mr. Quass and Mr. Thompson responded, the BoA can't put conditions on the proposed variance.

Motion:

Mr. Gray - Motion was made to approve the variance as requested by Mr. & Mrs. Preston.

Tydings – Second

5/0 All in favor

Application Approved:

Written decision to follow after 60-day appeal period.

2. **106 Union Street Associates, LLC request:** - Lorie Grayson & Mr. Bada

Variance to the rear yard setback as stated in chapter 220-24 Density Control Table from the required 10 feet to 1 foot 7 inches.

Mr. Crawford reviewed background information provided by the town followed by an explanation and further background information from Mr. Quass.

Freddie Bada, from Moonlight Architecture on behalf of the owner explained the project and some hardships associated with the building. If a variance is granted project will go before the Historic Preservation Commission who will determine design ascetics.

Lorie Grayson one of the owners of the building was introduced to Board. One hardship is the business's growth and the need for expansion, consequently, the size of the current building is very limited. Personal hardship is not a reason for granting a variance but must be something particular to this property. It was established this building and had some unusual circumstances associated with it. The focus must be on the parcel and how the use interacts with the parcel. Does the limited depth of this lot make the property unique? There was a consensus that the limited length did constitute a hardship.

If the building is expanded there is no additional parking regulation to consider.

Conditions peculiar to this property:

The condition considered relevant to this property qualifying it for a variance was the unusual narrowness of the building creating a very small building footprint. The limited building size has proved to be a hardship.

Public Comments:

Honey-Joe Mathis- a recent resident of Milton wants to see this business in Milton. (irrelevant)

Libby Zando – knows the applicant who also would like to see her business established in Milton. (irrelevant)

Public Hearing Closed:

The intent of the Town Center District was discussed and it was agreed that this project dovetails into that stated intent. A key question posed by Mr. Thompson was, is this property's relatively shallow depth, in its specific location add up to an unusual/unique hardship? It was agreed it did.

Motion:

Mr. Byrnes- Motion to approve the variance

Sangree – second

5/0 all in favor

Application Approved:

Written decision to follow after 60-day appeal period.

3. Milton Attainable Housing Variance Request: - Mr. Eric Sugrue & Mr. Zach Crouch

Variance to the required number of off-street parking spaces Under Chapter 220-42 B. The required number of parking spaces for the Town of Milton is 2.5 parking spaces per multi-family and townhouses. The requirement for a single-family residence is 2 parking spaces. The applicant is proposing 551 spaces which is 49 spaces below the required amount.

Mr. Crawford reviewed background information provided by the town followed by an explanation and further background information from Mr. Quass. The question was asked when the Town changed the code requirement for off-street parking spaces from 2 spaces per unit to 2.5 spaces per unit. Original code required 2 spaces for all residential units. Code possibly changed in 2004. Several other communities in Southern Delaware only required 2 spaces per unit.

Zach Crouch registered professional engineer and Mr. Eric Sugrue of Milton Attainable Housing are making the request. Mr. Crouch explained the project's lengthy progress through the process. One possible hardship is this property has no discharge for stormwater management. All stormwater stays on-site adding extra ponds eliminating some green space. The additional parking spaces increases impervious area which increases stormwater management which decreases open spaces. This variance would decrease 40,000 sq ft of impervious area. The additional stormwater management creates an additional cost to the builder.

Mr. Thompson referenced Milton Town Code 220-42 E 'Off-street parking requirements may be varied in whole or in part upon findings by the Board of Adjustment pursuant to Article XI of this chapter.

Conditions peculiar to this property: 2.5 parking spaces per unit increases impervious area, increasing stormwater management decreasing open green space.

Public Comments:

Mr. Charles Schwinabart, 24719 Broadkill informed the Board he never received the required public notice of meeting. Just learned about this meeting. Mr. Schwinabart spoke to the Post Master who showed him a signed green card acknowledging receipt bur Charles stated it wasn't his signature on the card. When the card was returned to the Town it was marked Covid. Up to 26 cards were marked Covid with no acknowledging signature. Mr. Quass stated several cards were returned without any signature.

Honey-Joe Mathis shared a concern about overflow parking. Wanted to know if there was a need for overflow parking where would it be.

Public Hearing Closed:

Mr. Thompson referred to code 220-84 governing the Board of Adjustments procedure regarding the mailing of notices to the public. T

The applicant shall mail notices of such public hearings to the owners or occupants of all lands within a radius of 200 feet from all boundary lines of the property for which the appeal is being requested. The Town will provide the applicant with the required information to be included in the notification letter. Such notices shall be mailed certified and postmarked at least 10 days prior to the date scheduled for the public hearing. A list of properties mailed to, copies of proof of mailings, and return receipts shall be provided to the Code Enforcement Officer five days prior to the public hearing.

The applicant has done his part and at the same time, the public is entitled to due process where they have a right to notice and participation. The process did break down due to no fault of the applicant or the general public. This seems to be a Post office problem that Mr. Quass is going to look into.

Mr. Thompson suggested reopening the public hearing portion until every entitled resident had proper legal notice and was given a chance to participate.

Motion:

Allen Sangree - Motion to leave the record open for purposes of providing the opportunity for comment from the mailing list recipients with the cards marked Covid and those that were returned with no signature the opportunity to make a public comment.

Walt Tydings – second

5/0 all in favor

Minutes approved at the 27 July 2021 meeting.