

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Etna Township Board of Zoning Appeals

Held

November 17,

20

2020

VA20-14 Duda 82 Betts Drive

Prior to calling the meeting to order the Chairman explained the Public Hearing Requirements.

The adjudicatory hearing was called to order by Chairman Reis at 5:04 p.m. on November 17, 2020 at the Etna Township Garage. The roll call showed members Trent Stepp, Shannon Mills, Greg Reis, Tommy Hunt, and Eric Nickolas present, along with Clerk Laura Brown.

The nature of the hearing was to consider Area Variance VA20-14 for the application submitted by Gerald Duda for 82 Betts Drive from Section 903 Single Family Residential District (RS) and Section 1005 Accessory Structures.

Chairman Reis explained the process of the hearing. The applicant, Gerald Duda and Zoning Inspector John Singleton were sworn in.

Chairman Reis reviewed the variances the applicant was requesting from Section 1005.1, Table 1005A to increase the maximum square footage from 800 square feet to 1,120 square feet, from Section 903 Single Family Residential District (RS) C.2 C Front Yard setbacks to reduce the set back requirement from twenty-five to ten feet to and Section 1005 Accessory Structures Section 1005.G no accessory structure in the front yard. This property is a corner lot and has two front yards. The board discussed whether there was an issue with the height of the proposed structure.

Gerald Duda of 82 Betts Drive stated the tool shed will be removed if the new structure is approved. The new structure will be on the side of the property that faces Roga Road. The property owner has a hardship because the utilities are in the yard. The mailbox is on Roga Road and the front door of the house is on Betts Drive. There is an attached two car, side load garage on the house.

Gerald Duda has a thirty-five foot long camper that he would like to store in the building along with two vehicles. He would also like to be able to eliminate two storage buildings he is renting and move tools and equipment into this building. Because of the utilities and trees on his property he is not able to move the building on his property. He would like to leave some of the trees to help buffer the garage. There is already an existing driveway on Roga Road. The applicant might need an additional cut on Roga Road for a driveway which would need to be approved by the Road Department. Mr. Duda is retired.

The adjacent property owners were notified. The township did not receive any calls or emails.

John Singleton, Zoning Inspector, provided a written staff report. The applicant first inquired in 2017 about building an accessory structure and was told at that time the size was not an issue. The Zoning Resolution has changed limiting the size of accessory structures. This property has two front yards with this being his side, front yard. The applicant clarified the setbacks he is requesting which would encroach in the road right-of-way. The applicant has a hardship because of the utilities in the back yard. The board and applicant discussed the location of the utilities on the property. The sides of the property that run along Betts Drive and Roga Road are considered front yards, the rear yard will start from the corner of the house back and then the side yard to the east. A portion of the building will be considered in the back yard of the property, but most of the building is in the front yard. The board discussed options with the applicant to get the building located out of the road right-of-way.

Trent Stepp moved to close the public testimony at 5:48 p.m. The motion was seconded by Eric Nicholas and passed by unanimous affirmative vote.

The board reviewed a diagram in Article 16 of the Zoning Resolution on page 16-6, Figure 16B - Corner and Through Lot Diagram that shows how to determine rear and side yards on a corner lot. Everything from the edge of the house to Roga Road and everything from the edge of the house to Betts Drive is front Yard. The side yard is only the small portion of the property between the house and the neighboring lot on the east side, a small L shaped portion. The rear yard is from the edge of the house to the lot to the north and the edge of the house to the lot to the east.

The applicant will need four variances which are the maximum square footage limitation on accessory structures, the building height limitation, a portion of the building is in the front yard, and the front yard setback. This property would have two vehicle doors without driveways.

The board and applicant discussed the possibility of moving the structure on the lot or attaching the structure to the principal structure. The Board is only permitted to act on what the applicant requested.

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The applicant discussed where the utilities are located on the lot.

The applicant requested the board table the decision so he can discuss concerns with his contractor and then he will meet with John Singleton to determine what can be done to eliminate some of the needed variances. The applicant is fine if this is not rescheduled until January of 2021.

Trent Stepp moved to recess the hearing at 6:17 p.m. and to hear this at one of our next scheduled meetings. The motion was seconded by Shannon Mills. Discussion: The next time the Board of Zoning Appeals meets they will schedule this hearing. The motion passed by unanimous affirmative vote.

VA-20-15 Ryan Homes 101 Buttonbush Place

The adjudicatory hearing was called to order by Chairman Reis at 6:19 p.m. on November 17, 2020 at the Etna Township Garage. The roll call showed members Trent Stepp, Shannon Mills, Greg Reis, Tommy Hunt, and Eric Nickolas present, along with Clerk Laura Brown.

This evening we will be considering **Area Variance** request VA20-15 for the application submitted by Ryan Homes for 101 Buttonbush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks.

Chairman Reis explained the process of the hearing. The applicant Alex Rudolph and Zoning Inspector John Singleton were sworn in.

John Singleton provided a written staff report. The applicant is requesting a reduction in the side yard setback from 5' to 4 ½', to allow for the home not meeting the required setback. On February 27, 2020 he went out to 101 Buttonbush Place for the final occupancy inspection. When he measured the setback, the south side of the house measured 5' from the survey stake meeting the required setback, and what was shown on the submitted drawing. The occupancy permit was issued. On July 15, 2020 when he went out to 105 Buttonbush Place for the final occupancy inspection. When he measured from the survey stake to the north side of the house, it measured 6' as shown on the submitted drawing. However, when he measured between the houses, there was only 10 ½'. This measurement did not add up to 11' as it should have. When he measured the south side of 105 Buttonbush Place, the measurements were correct. Meaning it was in the right place. The occupancy permit for 105 Buttonbush Place was issued because it was where it should have been. When I measured 101 initially, it met the distance from the stakes. When I measured 105 initially, it met the distance from the stakes. To me, this can only mean the stakes were being moved to accommodate the inspection. The builder came back with the reasoning that the stick-on stone shortened the distance between the 2 houses. But the stick-on stone was in place at the time of the inspections, and the measurements from the stakes were correct at the time. The builder was advised they were going to have to have the 2 lots re-platted so the minimum setbacks could be met. As 105 Buttonbush Place has a 6' setback and can be reduced to 5 ½' without causing an encroachment issue, and that would allow 101 Buttonbush Place to be increased to the required 5' minimum setback. Then both would be conforming.

Alex Rudolph with Ryan Homes stated they do not show the stone being in the setbacks when they apply for Zoning Permits. This is an occupied home. They do not have any room to move this house on the lot. The board discussed with the applicant how the setback decreased. The masonry stone on the house sticks out into the setback. John Singleton stated when he measured the setbacks the stone was on the homes. John Singleton uses a laser measuring device to measure the setbacks.

The board was provided drawings to review that show how the homes were approved compared to how they were built.

The board verified the 4.6 feet is the correct variance the applicant is requesting.

The utility easement runs in the rear of the property and verified the easements between the homes.

John Singleton discussed the possibility of Ryan Homes doing a re-plat of the homes. Alex Rudolph stated they are not the developer and the developer would have to request a re-plat.

Trent Stepp moved to close the public hearing at 6:52 p.m. The motion was seconded by Tommy Hunt and passed by unanimous affirmative vote.

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Etna Township Board of Zoning Appeals

Held November 17, 20 2020

The board discussed whether the house could slide east on the lot. The board discussed whether the location of the home has caused the set back issue and not the stone on the home. The air conditioning unit would encroach in the easement. The board discussed where the house is placed on the lot.

This house is occupied. This could potentially affect both lots if this variance is not granted. This could be obviated by re-platting the two lots. The applicant is not the developer to request the re-plat. The township needs the builders to place the houses and air conditioner units where they are supposed to be. The board discussed the negative impact on the homeowner, builder, and developer.

Eric Nickolas moved to approve area variance VA-20-15 submitted Ryan Homes for 101 Buttonbush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks from five feet to 4.6 feet because the Standards for 'Practical Difficulty' (Section 512.B.) has been met. The motion was seconded by Shannon Mills. The roll call was as follows: Eric Nickolas, yes; Tommy Hunt, yes; Greg Reis, no; Shannon Mills, yes; and Trent Stepp, no; the motion passed 3-2 and the variance is approved.

Public Meeting

The public meeting was to approve the minutes from the September 15 and 19, 2020 and October 27, 2020 adjudicatory hearings and to sign the final orders.

Trent Stepp moved to waive the public reading and to approve the minutes and sign the final orders from the September 15, 2020 hearings VA20-10 and VA20-11; September 29, 2020 VA20-12; and October 27, 2020 VA-13 as presented. The motion was seconded by Tommy Hunt and passed by unanimous affirmative vote.

Trent Stepp moved to adjourn the meeting at 7:17 p.m. The motion was seconded by Shannon Mills and passed without objections.



Laura Brown, Clerk



Greg Reis, Chairman



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Members: Sarah Benoit-Eric Nickolas-Greig Reis-Mark Schaff-Trent Stepp
Alternates: Tommy Hunt - Shannon Mills

FINAL ORDER

The Etna Township Board of Zoning Appeals held an adjudicatory hearing on November 17, 2020 at the Etna Township Garage to consider Area Variance request VA20-15 for the application submitted by Ryan Homes for 101 Buttonbush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks.

The Board moved to approve area variance VA-20-15 submitted Ryan Homes for 101 Buttonbush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks from five feet to 4.6 feet because the Standards for 'Practical Difficulty' (Section 512.B.) has been met. The roll call was as follows: Eric Nickolas, yes; Tom Hunt, yes; Greg Reis, no; Shannon Mills, yes; and Trent Stepp, no; the motion passed 3-2 and the variance is approved.

A handwritten signature in black ink, appearing to be "Tommy Hunt", written over a horizontal line.

Tommy Hunt

A handwritten signature in black ink, appearing to be "Shannon Mills", written over a horizontal line.

Shannon Mills

A handwritten signature in black ink, appearing to be "Eric Nickolas", written over a horizontal line.

Eric Nickolas

A handwritten signature in blue ink, appearing to be "Greg Reis", written over a horizontal line.

Greg Reis

A handwritten signature in blue ink, appearing to be "Trent Stepp", written over a horizontal line.

Trent Stepp

The Final Order was approved and signed: March 16, 2021

The Final Order was mailed/emailed to applicant on: March 17, 2021