

**CITY OF TALLMADGE  
BOARD OF ZONING APPEALS**

MINUTES OF MEETING HELD August 13, 2019 7:00 p.m. Council Chambers  
Date Time Place

MEMBERS PRESENT: Richard Schunk, Tim Gregg, Chuck Victor

MEMBERS ABSENT: Richean Kuzior, Melanie Bushey

CHAired BY: Richard Schunk

SECRETARY: Kelli Funk

REGULAR MEETING

SPECIAL MEETING

PRESENT: Dave Kline, Mayor  
Megan Raber, Law Director  
Helene Hussing, Planning and Zoning Manager

**ITEMS TO BE DISCUSSED**

**Item #1** Case No. 1024.....7:01 PM

**Ram Chuhan, applicant/owner  
524 Deerwood Drive**

- Variance requested from Subsection 1181.04 (a) Fences or walls erected within the minimum front yard setback shall not exceed 3½ feet in height;
- **Request variance to allow 6-foot fence in front setback.**
- For review and determination

**Item #2** Case No. 1025.....7:05 PM

**Jeffrey Dolly, applicant/owner  
376 North Avenue**

- Variance requested from Subsection 1157.08(a) Minimum rear yard setback is 25 feet.
- **Request variance to allow 7 feet.**
- For review and determination

The August 13, 2019 meeting of the Board of Zoning Appeals was called to order at 7:00 p.m. by acting Chairman, Richard Schunk.

The meeting was opened with the Pledge of Allegiance.

Roll called. All members were present with the exception of Richean Kuzior and Melanie Bushey.

Mr. Victor: **I would move that Ms. Bushey and Ms. Kuzior are excused for this evening.**

Mr. Gregg: **I second.**

All members present voted in favor. (3-0)

Mr. Schunk: The minutes of the July 9<sup>th</sup> meeting, I do not think we have enough people who were present at that meeting to approve those minutes so, **I move to defer those until next months meeting.**

All members voted in favor. (3-0)

Mr. Schunk: Do we have some agenda additions at this meeting?

Mrs. Hussing: We do not, Mr. Chairman.

Mr. Schunk: But there are some correspondence for it?

Mrs. Hussing: There are, which should be right in front of you.

Mr. Schunk: Ok, the first case to be called:

**Case No. 1024**

**Ram Chuhan, applicant/owner  
524 Deerwood Drive**

- Variance requested from Subsection 1181.04 (a) Fences or walls erected within the minimum front yard setback shall not exceed 3½ feet in height;
- **Request variance to allow 6-foot fence in front setback.**
- For review and determination

Ram Chuhan was sworn in.

Mr. Chuhan: My question is, before 3 months ago, I bought a house in Tallmadge City and I put the fence in. First, I came here and I filled out the application for the fencing and they approved for front and back yard. I put the fence in the back yard. After 1 month, the director of Tallmadge, he came to meet me, in the front yard. And when I put the fence in to save my kids, I have 4 kids; 2 my brother and sister and 2 of them, 1 daughter and 1 small son. And that is why I put the fence in. Before they approved me for the fencing and after 1 month, they made me cut down the 3.5 feet. Why? That is my question.

Mrs. Hussing: Mr. Chairman, I can help out with that. I'll try to explain it one more time. Because your house is located on the corner, on 2 streets. The front of your property is measured on both sides of the street and the setback on your street, I believe is 50 feet and 25 feet. In that 25-foot section, you cannot have a fence that is higher than 7 feet. It can only be 3½ feet. So, do you understand it now? So, you are asking for it to be raised to 6 feet.

Mr. Schunk: The fence that you installed, was it 6 foot fencing?

Mr. Chuhan: Yes, sir.

Mr. Schunk: And you had to remove 3 feet from that fence?

Mr. Chuhan: Yes.

Mr. Schunk: Is that consistent?

Mrs. Hussing: That's consistent, yes.

Mr. Schunk: Is there anyone else in the audience who wishes to speak on this?

Pat Caprez was sworn in.

Mr. Caprez: I think what he wants to do is a great idea. I don't see any problem with the fence being 6' there. It doesn't obstruct the corner at all, of Deerwood and Woodlawn. I think that in the backyard it would just be nice to have that whole think fenced in and fenced in right up to the garage actually. So, I'm all for it.

Mr. Schunk: Anyone else like to speak on this?

Patricia Brunswick was sworn in.

Ms. Brunswick: I, too, am in favor of putting this fence up. If you will look at these pictures, the fence... my backyard and Ram's backyard, it's a community type fence and they took.... [25 feet in length] ... anyways that's the 2 backyards as they butt up together and I think it would be nice if that fence would be put back up there. Now, they have small children and the safety factor is an issue out there. I don't think that he went against the City's recommendation. I'm sure that this was explained fully and as Mrs. Hussing and her department, I'm sure they explained it in detail. I'm sure by the same token, he did not understand. Maybe because of the cultural difference, language barrier... whatever. But I don't think he would deliberately put this up and go to the expense and the labor of putting it up and then have to take it down. They're just not that kind of people and... so anyway, having said all that, I would ask your consideration in rebuilding that fence as it originally was. Thank you for your time.

Mr. Schunk: Does anyone else want to speak in favor of the fence?

Janette Fortseras was sworn in.

Ms. Fortseras: When he put it all up, like she said, he didn't understand, but when they told him it was not supposed to be that way, he took it down right away and did what he was supposed to do accordingly. But, in doing so, I think it's more of an eyesore but even more, as a grandmother, I worry about those kids. You can see them now and they are little and anybody can just grab them. And he's so close to East Ave that I would love to see that fence back up the way we originally wanted. And again, I think it's an eyesore being half and half. It looks like he didn't know what he was doing. That's all. Thank you.

Trudy Smith was sworn in.

Ms. Smith: I agree that the fence should be 6 feet. The issue seems to be a safety issue. There are 4 little kids. There were 6 today at a quarter to 6, going in front of my house, riding their bicycles. Girl about this tall was pushing a baby carriage with a baby in it. There was a truck coming down the road and Mr. Hurd was trying to get out of his driveway. I see this all the time. Now, putting up a 6-foot fence is not going to keep these kids safe if they are out in the street getting hit by a car. So, I'm in favor of the fence but I'd like someone to address the issue of these kids. They're riding in the street in front of my house or on Woodlawn all the time going like this... and they're going to get hit.

Mr. Schunk: Is there a sidewalk?

Ms. Smith: No.

Mr. Schunk: None? Anyone else in the audience wish to speak on this matter?

Jerry Edinger was sworn in.

Mr. Edinger: Am I allowed to address a question to Mr. Chuhan?

Mrs. Raber: No, you need to address the Commission please and then they can ask him later.

Mr. Edinger: I have not had a chance to talk to Mr. Chuhan. I don't necessarily have any problem with the fence being 6 foot as opposed to 3 foot, or whatever he cut it down to. My question would be, I know it's on the side yard on Deerwood... my question would be if the fence is going to go around and meet up with the house and does it meet up with the house on the other side so it will actually give complete... Is the idea to totally encapsulate the backyard? I guess that's my question.

Mr. Schunk: Ok, is that true sir? You're going to enclose the backyard?

Mayor Kline: As you can see, the picture I put up there, this is the house, the is Woodlawn. The yellow would be representing the fence coming across going back into the yard. Does it connect to the garage?

Mr. Edinger: It is going to connect to the garage? Because that's not yellow.

Mayor Kline: I can't make that out.

Mr. Edinger: I guess my main question is, if it doesn't do that, then it's not going to keep the children in the backyard and if it doesn't accomplish that, there's no purpose to have the 6-foot fence. My only concern, and again I have not met the Chauhan's, I've seen them up and down the road, and we all walk up and down the road, we ride our bicycles and most everyone that comes in there, because it's an enclosed development, are people that live there and most everyone knows to drive more slowly when you see anyone walking or walking their dog or children riding their bicycles but, it is going to be right there as you come into Woodlawn Estates, it is a tall fence and kind of gives me the impression of being stockade looking. But, like I said, if it is going to totally encapsulate the backyard, maybe there's a gate that goes into it or something, and it can keep the children in the backyard for their safety, I have no problem with it either. I don't know if the drawing shows that, if that was the intent.

Mrs. Raber: We can inquire of the applicant if that's the extent of your question.

Mr. Schunk: Does anyone else in the audience wish to comment on this matter? Does anyone on the Board wish to comment or question on this matter.

Mr. Victor: Mr. Chuhan, can you approach again please? It seems to me one of the possible solutions, compromise, would be to go from the edge of the house, along the ROW, you need to rebuild the fence anyway, if we approve the variance, you would have to add the 3 feet back on. What about moving the fence so it's even with the house?

[Inaudible speech]

Mr. Victor: Mrs. Hussing, if it is with the house, does that meet the 25-foot setback? If it was 6 foot there?

Mrs. Hussing: If it came down south, it would meet the requirements. It would make his backyard much smaller too.

Mr. Victor: That is correct, I understand that. But, if you did that, if that's something that your would consider, you could make it 6 foot, it would meet the requirement... your backyard shrinks somewhat, but you could seal the whole backyard in with a 6 foot fence without a variance, is that correct?

Mayor Kline: Looking at the map that they're requesting, the fence that is currently installed is 6 foot along the back, over here it went all the way to that ROW and as we know, we can't have a 6-foot fence...

Mr. Victor: I know, I'm saying where it stops at the 3 foot... where 3 foot starts on the back line, go directly north from there.

Mayor Kline: Then he would lose that space here.

Mr. Victor: Correct, but you wouldn't need a variance then. You could put a 6-foot fence there, is that correct?

Mayor Kline: That is correct.

Mr. Fortseras: Alright, here's where the gravel is. I'm thinking that where the gravel is, he was going to put the fence all the way here, then the house is over here and he'll put a gate or whatever here and over here, my son lives on this side and he went right up to the end of the house in the back and he just hasn't done anything with that yet because he has to deal with the downspout, so it would be all completely fenced in.

Mr. Victor: The question is, if he moved the fence now that's 3½ foot, now move that over to the 25-foot line at the end of the gravel and go from there down...

Ms. Fortseras: Oh, you want it in more...

Mr. Victor: Well that would eliminate the need for a variance.

Ms. Fortseras: Well, he wants to leave it where it's at.

Mr. Victor: I understand what he wants, I'm saying is that a compromise that he might be willing to do? He's going to have to rebuild the fence anyway to add the 3-foot back, if his variance is approved. Is that a compromise, since you have to do work anyway, can you go to the corner of the house?

Ms. Fortseras: I thought by putting it here, and today was to let it stay here and go up to 6 foot here.

Mr. Victor: I understand that's his request, but the variance hasn't been approved so if he would get approved, he has to rebuild that fence anyway to add the 3 feet back on. I'm saying one compromise could be, go over where it stops at 3 foot, or the 6-foot stops and go directly to the house. He loses 25 feet of yard, I understand that, but he still has a substantial backyard, he doesn't need a variance then. Is that something that he might be willing to do?

Ms. Fortseras: Well, I think we'd rather get the approval.

Mr. Victor: Which is not a guarantee, but you might get the approval. So, I'm just offering something for consideration.

[Ms. Fortseras explains question to Mr. Chuhan off the record]

Ms. Fortseras: Yea, we would rather do the variance and see it go up. I think it would even look better this way. And give the kids more of a play area too.

Mr. Schunk: How old are you children?

Mr. Chuhan: One is 10, one is 8, one is 5 and one is running 1 year. My sister-in-law, they brought 2 kids in my house every day, that is why I put the fence at 6 feet.

Mr. Schunk: Another question from the audience?

Ms. Brunswick: This fence on the Woodlawn side, is probably 2/3 finished, at one time it was. And then they cut it down. But you've got the basics of this fence already built, and if he was allowed to redo this, you can connect part of this back up onto the existing posts and at least maybe cut down some of the

expense of having to rebuild. Also, if Chucks idea was excepted, this fence is going to come at an angle, where it would come in and you lose a great portion of his yard. So, I think the variance would be the better idea. As I say, the fence is partially built now and so maybe they could go from there.

Ms. Fortseras: And everybody that's here that has spoken, everybody doesn't mind where it's at.

Mr. Victor: For clarification, mine was not a suggestion that he do that, it was an offer, here's a way to compromise and you don't need the variance.

Mr. Schunk: Is there anyone else who wishes to speak for or against the proposed variance?

Mr. Caprez: I just don't see what the problem is where it's at, because it doesn't screw up any sight lines for the intersection, and the site lines are fine. I just don't see why you would even consider moving it in 25 feet, it just doesn't make sense.

Mayor Kline: I think the only question that brought up the whole topic of that...are you enclosing the fence to the house, so it encloses the back yard for safety purposes.

Mr. Caprez: Well, he could easily do that by...

Mayor Kline: Taking it across here, where it shows that gravel and then right up along and tying it to the house. And it's tied in.

Mr. Schunk: Anyone else have a comment on this? Do we have a motion?

**Mr. Victor: I move to approve the variance request for applicant Ram Chuhan for the property located at 524 Deerwood Dr, Tallmadge OH for the variance request from Subsection 1181.04 (a) Fences or walls erected within the minimum front yard setback shall not exceed 3½ feet in height; seeking 6 foot in height based upon the plans and application submitted and dated July 11, 2019 and the evidence presented that:**

- 1. The strict application of the provisions of the Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Zoning Code.**
- 2. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development or the property that do not apply generally to other properties or uses in the same zoning district or neighborhood;**
- 3. The granting of such a variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought and will not materially impair the purpose of this Zoning Code.**

Mr. Schunk: I'll second.

Mayor Kline: Can I add a friendly amendment to make sure the fence encloses to the house? Because the drawing does not depict that.

Mr. Victor: **I amend my motion to include that the fence is enclosed to the house.**

Mr. Gregg: **I second.**

Mr. Victor: I would offer that, the reason, while it may not appear that there's a problem, and I would agree with that, however, fencing is a problem within the City and the rule says it has to be 25 feet in so, this is somewhat of an exception and we hear no objections from anybody else in the neighborhood so that is why I concur with the motion.

Mr. Schunk: Just one technical matter I wanted to advise the applicant on... since we only have 3 members on the board, all 3 have to be unanimous, either for or against it. If you wish to have the full Board of 5 members present to vote on this, you can have your... being continued, postponed, until the next meeting. Do you wish to have a vote tonight or do you wish to have your vote the next time? [Discussion in the audience] You wish a vote tonight? Ok.

All members present voted in favor. (3-0)

Mr. Schunk: The motion passes. You have permission to build your fence. The next item on the agenda:

<p><b><u>Case No. 1025</u></b> <b>Jeffrey Dolly, applicant/owner</b> <b>376 North Avenue</b></p> <ul style="list-style-type: none"><li>• Variance requested from Subsection 1157.08(a) Minimum rear yard setback is 25 feet.</li><li>• <b>Request variance to allow 7 feet.</b></li><li>• For review and determination</li></ul>
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Jeff Dolly was sworn in.

Mr. Dolly: What I'm requesting a variance for is, the variance calls for a roofed structure to be setback from the rear of your property 25 feet. I presently have a 180 sq ft little shed back there that I store my lawn mower in and snow blower and so forth and so on. I also own a boat that normally sits in my driveway all summer and I live on 91 and with 91 kind of being the gateway to Tallmadge, I don't like the looks of it and my house, that way it was built, I am like 4'6" on each side of my house to my property line. So, I don't have enough room to pour a concrete pad like most people do, beside their garage or beside their house, that they park their boat on and I think that looks ok. So, what I've done is I have poured a concrete pad next to my shed so I can put my boat in the back yard and get it off of 91. What I'm requesting a variance for is to be able to put a cover over the top of the boat to keep the elements off of it, the rain and so forth. So, I'm looking at a carport, that's a premanufactured structure, and I was thinking of putting a carport on the concrete pad. The structures are capable of being enclosed or wide open. I was looking at possibly putting just the roof up at this point and if I felt it was necessary at a later date, because I didn't accomplish what I wanted to accomplish, then I would probably want to put sides on it. 25-foot set back, if you were to look at my backyard, would put the structure in the middle of my yard, it just wouldn't look good. This is much more eye appealing because it's more symmetric with the shed that's already there. And it gets the boat out of the driveway and off of 91. Any questions?

Mr. Schunk: Anyone in the audience have a question or a comment?

Mr. Gregg: So, the shed and the pad and the carport will be at the rear of the property?

Mr. Dolly: At the far rear, left hand corner of the property, correct.

Mr. Schunk: And where is the ingress/egress?

Mr. Dolly: Through my backyard. As you can see my house goes almost from line to line so there's no where to pour a concrete pad and at present, this is my driveway and this is a pull off and this is where the boat sits, right here and this is 91 out here and I just don't think it looks good. So, here's my shed and I poured this all in concrete and putting the boat here on this pad.

Mr. Schunk: So, what would be the route the boat would take when you haul it in there?

Mr. Victor: How do you get it back there?

Mr. Dolly: I drive through my garage. My garage has a front door and a back door and I just drive through it. I've walked the neighborhood and I did show the plot plan that was just up there to my neighbors that can physically see this and they have wrote letters. There's really only 4 that can actually see my backyard. The person that lives directly behind me, the people that live on each side of me and then there's one fellow that lives on the corner of Heritage that, form his driveway, he could see my backyard and I marked all that on one of our Street Plans, to show you which people couldn't actually see it. Four of the individuals had no problem whatsoever with what I wanted to do. The person directly behind me has a problem with it.

Mr. Schunk: Is that person...

Mr. Dolly: He is here, yes.

Mr. Schunk: Ok, we'll give him a chance to speak.

Michael Gray was sworn in.

Mr. Gray: I would argue that first of all, 90% of what he said is very accurate. He does have a boat that doesn't fit there, I agree. He's done a lot of changes in his property and he's done a very quality job, I'm not questioning that. I would argue that, the neighbor one beside me does not vote for it. It's a rental and.... This is a picture from my house and I spoke to the neighbor to the right and he called me and said I'm not going to come to the meeting but I agree with whatever you say, so I don't think he talked to all 5, that was Steve Mashek. My problem is that, because of the setbacks on the house, his yard is 200 feet deep, my yard's 150 feet deep, I have a clear view to that and I just don't think that a carport on the back of the property is what someone wants to look at when they're having family dinner. Like I said, he does everything quality, I'm not questioning that, I just don't want to look at a boat and a car and the inevitable stuff that shows up there later and I think it potentially lowers the value of my house. So, I just don't think, and not to mention the carport, which I'm sure is a quality carport, in 6 or 7 years will start rusting or 10 years start rusting. And now we look like West Virginia and I live in Tallmadge because we have Zoning and we have things that don't allow that so, I agree with him that he has too much stuff for the street, but then don't buy so much stuff. You live in a small property in Tallmadge. You bought the property, you knew it, I don't have a problem with what he does, I just don't want to look at it. That's my only complaint and the guy to my immediate right said he will confer to me and agree with whatever I said so... that's all.

Dinah Dolly was sworn in.

Mrs. Dolly: Ok, first of all, the house that he's talking about next door to him, the only way he can see our backyard is to look through his shed and our barn. Our barn sticks all the way over there and his barn's behind that. That neighbor can't even see our yard unless he's standing deliberately trying to look into our backyard, because that shed is there. So, that can't be an issue, because we kind of did the survey thing, we went around and we looked to see what people could see and as far as his saying if we put this metal thing up and it will rust out and it will look like, not good.. If you look at our property, we're probably to only person in the neighborhood that has painted their house twice in less than 10 years, we maintenance all of our stuff, we don't leave... If that carport began to look bad, we'd take it down and get a new one, because that's part of the problem here, we probably spend too much money, but it's ours to spend. There was 6 trees across the back and the Gray's asked us to remove them and we took them all down at our expense because that's not what they wanted, so now that's the reason they can look into our backyard so well, is because we removed the trees because they requested us to. They said they didn't want to deal with our leaves so we took the trees down and now they don't want to look into our backyard but we have nothing to hide. We took the trees down because they requested it. That's all I have to say. It's kind of like we do what they ask us to do and now we want to do something for our benefit and now



they're thinking it's an eyesore. And they haven't even seen our boat to see whether it's an eyesore or not. Thank you.

Mr. Gregg: And you've got a 20-year rust warranty on this carport.

Mr. Dolly: What I want to say is, to put the pad where the pad is at, which is going to answer one of his questions, is not against any code. And for me to park my boat on that pad without a roofed structure over it is not against any code. So, I guess the matter of fact is, whether I put a carport top over this or not, I just want him to understand that I'm still parking my boat there. So, that's basically what I wanted to say was the boat is going to go there. The reason it's not there right now is, I had a specific amount of time I had to let the concrete cure or the boat would be sitting there in that picture. Thank you.

Mr. Schunk: The total square footage, including the shed and the proposed structure is under 900 sq ft, correct?

Mr. Dolly: The total square footage of the small shed that is there right now is 180 sq ft and the carport that I wanted to put there is 500 sq ft. It's 20 x 25.

Mr. Schunk: Would there be sufficient sq footage on your property if you used to 900 sq ft that your permitted to have? Could you change the setback on that and squeeze in that 900 sq foot auxiliary building area?

Mr. Dolly: I'm not following the question.

Mayor Kline: Mr. Schunk, are you requesting that, if he moves it up to the 25-foot setback could it still fit the structure?

Mr. Schunk: Yes, if you abide my all the setbacks...

Mr. Dolly: If I moved it up to the 25-foot setback I would be like up into here in my yard and I think that would look worse than what I've got. And again, the main reason I'm wanting to do this is to get the boat off of 91 and put it behind my house because, as you can see, in either direction, I can't put a pad on the side of my house, I don't have the room. Or I would have put it on the side.

Mr. Schunk: How big of boat do you have?

Mr. Dolly: It's a 16½ ft ski boat.

Mr. Schunk: You're not very far from the fairgrounds, have you considered storing it at the fairgrounds?

Mr. Dolly: You can winter store it at the fairgrounds but I'm not going down there everyday to get it all summer. I do put my convertible in storage in the winter at the fairgrounds. During the summer, the convertible sits here and then once it's time for the fairgrounds to call and say it's time to put the car away, I take the car down there and that's where I store it.

Mr. Schunk: Any more questions from the audience? How about members of the Board? So, you have any questions?

Kenneth Carver was sworn in.

Mr. Carver: So, I have written a prepared statement so I will simply read that and I have a copy that I can submit too, if that would be helpful.

I hereby submit the following prepared statement:

*The City of Tallmadge has established codes and ordinances in support of the ideals within her charter. It is assumed that these laws are designed for the betterment of the community at large and the residents and business owners as individual community members. Those who comprise the community have either grown up here or have chosen to live here because-in many instances-they are attracted to what the city has to offer.*

*Regarding the notion of modifying a zoning ordinance-apart from the party seeking the variance or the parties directly affected by the proposed modification-it seems fair and reasonable to this speaker that a level of significant consideration should be the agreement of all parties involved. It would not be deemed judicious to allow a modification of any law if in so doing any such party is then placed at a reasonable disadvantage. The best interests of all parties involved seem inherently both good and right.*

*Apart from law itself, the principle of neighborliness would suggest that adjacent and other affected property owners communicate with and respect each other. Unfortunately (and not necessarily in the present case), there are times in which property owners have opposing views regarding what is appropriate or desirable. Laws and ordinances are established to provide a standard of right and wrong and protect all citizens against possible abuses. Such laws were drafted and ratified under the pretext of order and fair use, among other ideals.*

*Most would consider that a variance awarded to a property owner could easily set a precedence for perhaps other property owners to secure a similar variance of their own in the future. Those seeking such a future variance may consider the past actions of the Board of Zoning as potentially favorable for their request, yet those who may oppose such a proposed future variance would consider the same actions as potentially unfavorable for their opposition. Such would be less of a concern if the law provides that each case is decided solely on the merits of the proposed reuse without consideration given to either the grant-ing of or the denial of past variances.*

*Regardless of the outcome of tonight's hearing, it is doubtless that the collective consensus is to encourage the peaceable habitation and equitable welfare of all residents. This is best accomplished through rational, respectful dialogue and a willingness to cooperate. If it can be convincingly demonstrated that allowing a variance to the established zoning ordinance will advance such harmony and good will, then this speaker stands in support of the proposal. However, if it appears likely that one or more parties would be negatively affected by the variance in question, this speaker would stand against the proposal in the greater interest of neighborliness, good will, and other indisputable positive qualities.*

*As a resident who is committed to decency, cooperation, justice, and the rule of law, I trust the Board of Zoning Appeals will arrive at a unanimous, equitable and well-reasoned decision.*

*Thank you.*

Mr. Schunk: Thank you. Is there anyone else in the audience that wishes to speak? For or against? Again, I would caution Mr. Dolly, you only have 3 out of the 5 members of the Board present to vote tonight. In order to approve your variance, we would have to have all 3 vote together or to defeat it they would have to all 3. If you have a feeling, for whatever reason, that your request will be more fairly considered by a complete Board of 5 people, which you are entitled to have them hear your request, you can ask that your application for a variance be considered at the next meeting or the next meeting that all members of the Board are present. Do you wish to avail yourself of this?

Mr. Dolly: The 3 members that are here this evening, they have heard the arguments from both sides. I think the 3 that are here will be more than fair, whether they rule in my favor or not. So, I don't object to the 3-member vote.

Mrs. Raber: We just want to make clear to the application that you are aware that, if the application is denied, you do have to wait a year before you can have a submittal or a new application. Thank you.



Mr. Gregg: I move to approve the variance request for applicant Jeffrey Dolly for the property located at 376 North Ave, Tallmadge OH for the variance request from 1157.08(a) 25 foot rear yard setback, seeking to allow 7 foot based upon the plans and application submitted and dated July 19, 2019 and the evidence presented that:

1. The strict application of the provisions of the Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Zoning Code.
2. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development or the property that do not apply generally to other properties or uses in the same zoning district or neighborhood;
3. The granting of such a variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought and will not materially impair the purpose of this Zoning Code.

Mr. Victor: I second.

Mr. Victor: I have comments I would like to make to the gentleman that spoke against this and that submitted the letter. There are some things that could happen and I think those need to be considered. When the motion talks about, would there be substantial detriment to the neighborhood, I'm not sure that it would be substantial and that is reflected in my vote to 2<sup>nd</sup> the motion. Your letter states that it could lower the property values and it's inevitable that stuff shows up. I disagree that... they are possibilities but it's not necessarily... My other reason for seconding the motion is that parking is permitted on that now, whether there's a structure or not a structure, so putting a carport, I don't think materially changes it and to Mr. Dolly, while it's admirable you want to get things off of North Ave, you also could possible adversely effect those that have to look at this, however, I think the ability to park there now overrides the potential of problems. We don't know that there will be actual problems, that's my reason for the 2<sup>nd</sup>.

Mr. Schunk: Any other comments?

Roll called. All members present voted in favor. (3-0)

Mr. Schunk: The application has been granted.

Mr. Victor: **Motion to adjourn.**

Mr. Schunk: **So moved.**

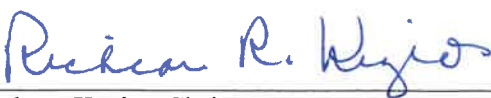
Mr. Gregg: **Second.**

Mr. Schunk: Meeting is adjourned.

Meeting adjourned at 7:56 pm.

Respectfully submitted,

  
\_\_\_\_\_  
Kelli Funk, Secretary

  
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Richean Kuzior, Chairwoman