

CITY OF TWINSBURG
BOARD OF ZONING APPEALS MINUTES
JANUARY 28, 2015

**CITY OF TWINSBURG
BOARD OF BUILDING AND ZONING CODE APPEALS
JANUARY 28, 2015**

Present: Messrs: Gary Wilner, Brian Davis, Ed Kancler and Neil Rubin

Absent: Mr. Tom Brown

Also Present: Mr. Russ Rodic, Building Commissioner
Mr. Sam Scaffide, Council Representative

The Board cited the Pledge of Allegiance.

**CITY OF TWINSBURG
BOARD OF BUILDING AND ZONING CODE APPEALS
WORK SESSION
JANUARY 28, 2015**

The Board of Building and Zoning Code Appeals met in a Public Work Session on Wednesday, January 28, 2015. The Chairman, Mr. Rubin called the meeting to order at 6:30 p.m.

A public hearing will be conducted at 6:30 pm on January 28, 2015; for the purpose of hearing an appeal for a variance from section 1161.15(c) of the Twinsburg Zoning and Development Regulations which requires a minimum 50 foot rear yard depth. The applicant is proposing a 15'x18' addition to the rear elevation of the dwelling. This appeal is made by David Post of 3108 Killingworth Lane.

- Specifically, a request for a 3 foot rear yard variance.
- 1. Appeal # 02-2015
Variance 1161.15 (c)
3108 Killingworth Ln. David Post rear setback variance.

Mr. Rubin stated that there would not be a work session and the public hearing would begin immediately.

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BOARD OF BUILDING AND ZONING CODE APPEALS
MEETING MINUTES
JANUARY 28, 2015**

The Board of Building and Zoning Code Appeals met on Wednesday, January 28, 2015. The Chairman, Mr. Rubin, called the meeting to order at 6:30p.m.

1. Appeal # 02-2015
Variance 1161.15 (c)
3108 Killingworth Ln. David Post rear setback variance.

Mr. Rubin advised the applicant that having four Board Members in attendance allows the possibility of a tied vote, in which case, the variance would be denied and the application could be appealed to City Council to be heard on a de novo (from the beginning) basis.

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Mr. Post stated that he would like to continue with the application tonight.

Mr. Rodic administered the Oath to Mr. David Post 3108 Killingworth Ln. Twinsburg, Ohio.

Mr. Rubin explained that Section 1161.15 (c) requires a 50 foot rear yard setback.

- Mr. Rubin asked for clarification of the discrepancy between a 3 foot variance request on the agenda and a 2 foot variance request in the applicant's letter to the Board.

Mr. Post stated that he originally believed it to be a 2 foot variance, but the agenda says 3 feet.

Mr. Rodic clarified that his research showed that a 3 foot variance would be needed and that is what was advertised and placed on the agenda.

Mr. Rubin noted the letter from Mr. Post dated January 5, 2015 as well as photographs and a site plan.

Mr. Post explained that one of the photographs shows a patio which he would like the addition to be in line with in order to be aesthetically pleasing.

- After re-measuring, he realized that it will require a 3 foot variance to fit the addition in the space.

Mr. Wilner stated that he understands the reasoning for the placement of the addition in relation to the existing heating and air conditioning units.

- Moving the utilities would be a hardship.

Mr. Post explained that he originally believed that a side yard variance was needed, but there is enough room in that area and it is a rear yard variance that he is seeking.

Mr. Wilner added that it appears that a second floor window would also have to be relocated if the addition were to be moved over.

Mr. Davis indicated that he has inspected the property and he understands what the applicant would like to do.

Mr. Kancler stated that there have been previous variance requests similar to this one with lot sizes having been determined under prior codes. The variances have been granted due to the limited use of the rear yard area.

Mr. Rubin explained that according to Section 1199.09, Powers and Duties (c) (2) A, B, C there are three criteria that must be answered in order to allow the variance.

- C. The granting of such variance will not be a substantial detriment to public interests.
 - o The Board Members indicated that they do not see a potential detriment to the public interest.
- B. There are exceptional circumstances or conditions for the intended use.
 - o Mr. Rubin stated that he sees the exceptional circumstance as the lot having been grandfathered in and is not the size of lots being allowed under current zoning.
- A. The strict application of the provisions of the code would result in a practical difficulty or unnecessary hardship.
 - o The placement of the utilities creates the practical difficulty.

MOTION: TO GRANT THE VARIANCE AS REQUESTED FOR THE FOLLOWING REASONS; SIMILAR VARIANCES HAVE BEEN GRANTED IN THE PAST DUE TO THE NATURE OF THE SIZE OF SUBLOTS THAT WERE PLATTED AT THE TIME THE ZONING REGULATIONS WERE PUT INTO EFFECT AND THAT DID NOT ANTICIPATE THE MAXIMUM USE OF REAR YARD SPACE. LIKEWISE, THERE IS A PRACTICAL DIFFICULTY AND HARDSHIP IN THIS PARTICULAR

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MATTER BECAUSE OF THE LOCATION OF THE UTILITIES WHICH WERE NOT WITHIN THE CONTROL OF THE HOMEOWNER AND THAT NECESSITATES THE PLACEMENT OF THE ADDITION AS SET FORTH IN THE REQUEST. LIKEWISE, THERE IS NO DETRIMENT TO THE PUBLIC IN AS MUCH AS VALUES TO NEIGHBORING PROPERTIES WILL NOT BE AFFECTED, THERE WILL BE NO INTERFERENCE WITH NEIGHBORING PROPERTIES IF THE VARIANCE IS GRANTED AND THEREFORE I AM ASKING THAT THE MOTION BE GRANTED.

MR. KANCLER MOVED, MR.DAVIS SECONDED
UPON ROLL CALL, MOTION PASSED UNANIMOUSLY.

Mr. Rodic explained that City Council will be notified of this finding and Mr. Scaffide can make a motion to Council to waive the 30 day waiting period associated with the variance.

- Mr. Post still has to provide plans to the Building Department and go through the Architectural Review Board process.

PUBLIC PARTICIPATION - NONE

APPROVAL OF MINUTES- Dated January 14, 2015

MOTION: MOTION TO APPROVE MINUTES OF JANUARY 14, 2015.

MR. WILNER MOVED, MR. RUBIN SECONDED
UPON ROLL CALL MOTION PASSED UNANIMOUSLY.

COMMUNICATIONS- Mr. Rodic stated that Mr. Castros, who did not appear at the previous meeting, has been contacted and stated that his travel schedule makes it difficult to attend meetings. He was told that he can send a representative who is able to present his case.

EXCUSE ABSENT MEMBERS-

MOTION; MOTION TO EXCUSE MR. BROWN FROM TONIGHT'S MEETING.

MR. WILNER MOVED, MR. DAVIS SECONDED
UPON ROLL CALL, MOTION PASSED UNANIMOUSLY.

ADJOURNMENT-

The meeting adjourned at 6:43p.m.

Neil Rubin, Chairman

Russ Rodic, Building Commissioner