



**Forest Acres Zoning Board of Appeals
Minutes
March 11, 2024
City Council Chambers
6:00 PM**

I. Call to order

Robin O'Neil, chair, called the meeting to order at 6:03 PM.

1. **Determination of a Quorum** – There was a quorum with the presence of Shirley Fawley, Derek Pace, Robin O'Neil, and Pete Balthazor. Kate Usry, Jesse Smith, Will Owens were absent. Andy Smith, Assistant City Administrator and Keith Lindler, Building Official, were present.

II. Approval of Minutes

1. **October 30, 2023**
2. **February 12, 2024**

Ms. Fawley made a motion to approve the October 30, 2023 and February 12, 2024 minutes; Mr. Balthazor seconded. Minutes were approved unanimously.

III. New Business

At the request of a ZBA member, Andy Smith reviewed the criteria that the Board should consider when granting a variance (i.e., conditions established by State law and our own zoning ordinance and outlined in the Variance Order).

1. Variance request

1707 Cherry Laurel Drive. (Brock); TMS 14010-08-07. Five variance requests to build an accessory structure:

- 1. 1.1% over the allowed lot coverage of 25%*
- 2. 424 additional square feet over the allowed 750 sf*
- 3. 8.9 feet over the allowed height of 15 feet*
- 4. 6.9 feet to reduce side setback from 10 feet to 3.1 feet (on accessory structure)*
- 5. 6.9 feet to reduce side setback from 10 feet to 3.1 feet (on port a cochere)*

Ms. O'Neil invited the applicant to introduce her request. The applicant noted that they're renovating this 1,389 sq ft house and detached garage. She noted that initially they didn't plan to occupy the home (which was once her father's). But, they came to love the house and wished to remain.

They need more space to accommodate their family and home occupation, and have come up with a plan that would require several variances. They wish to add a covered area for vehicles that lines up with the existing detached garage and enlarge the garage. This will require a variance to the side setback to the garage/ accessory structure (acknowledging existing nonconformity as to side setback)

and new *port a cochere* (extending existing nonconformity), given the location of the garage. The addition to the garage will have a second floor for office space and storage for work-from-home needs. Adding to the garage will cause it to exceed the 750 sq foot maximum for accessory structures by 424 sq feet, exceed the allowed height (15ft maximum) for accessory structures by 8.9 feet, and allowed lot coverage (25% maximum) by 1.1%.

Ms. O'Neil asked for questions from the board. Mr. Balthazor asked if this is the minimum necessary for what they need to accomplish. Ms. Brock explained why she believed it was the minimum necessary for their needs and the existing location of the house and garage. She explained that the height and square footage on the accessory structure addition was needed for their home occupation needs, and that the height wouldn't be particularly noticeable from the road.

The neighbor on the side of the garage noted his support for the project. Ms. Fawley asked about the rear neighbor. The applicant noted that the lot to the rear is a large (~1 acre lot), wooded lot and largely not visible from the applicant's property (and vice versa).

Mr. Balthazor made a motion to approve the variances as requested. The motion did not receive a second.

Ms. Fawley noted that she didn't hear how these were the minimum necessary variances or how this property is unique (i.e., differs from neighboring properties). Mr. Balthazor asked what exceptional conditions pertain to this particular property. There was discussion about the fact that the zoning ordinance is currently undergoing an extensive re-write which may more easily allow projects of this nature, but that right now we have to operate under the existing ordinance.

After brief discussion about the applicant's plans and how the City might help administratively to determine what alternatives might be considered that wouldn't require as extensive of variances (or any variances at all), the applicant elected to withdraw her application for the time being and no action was taken on this variance request.

2. Variance request

321 Spring Lake Road. (Chappell); TMS 16801-04-15. Two variance requests to build an accessory structure:

- 1. 528 additional square feet over the allowed 750 sf*
- 2. 13.10 feet over the allowed height of 15 feet*

Ms. O'Neil introduced this item and invited the applicant to discuss the request. Mr. Chappell noted that he wishes to construct an accessory structure that would exceed the maximum square footage by 528 sq ft and 13.10 feet over the 15 foot height maximum. He noted that even with this height it would be well below the peak of the principal structure (roughly 38 feet at peak) and that they can place the accessory structure such that it won't require a setback variance. He noted that this accessory structure is needed to accommodate his growing family. It will be a three-car garage (his car, his wife's car, and a restored vehicle) with a second story above. This lot is unusually large for Forest Acres (just over 1.25 acres). Mr. Balthazor asked if this was the minimum necessary variance(s). Mr. Chappell asked for further clarification on *minimum*. Mr. Balthazor read the language from

the ordinance noting that the board is required to make a finding that the variance is "...the minimum variance that will make possible the reasonable use of the land, building, or structure". Mr. Balthazor asked if there were ways to decrease the size of the structure (square footage or height). Mr. Chappell noted that this was indeed the minimum that they need given their family needs and what they intend to use the space for.

Mr. Balthazor asked what makes the property unique. Mr. Chappell noted the unusually large size of the lot (i.e., a double lot), noting that the request is of consistent scale with the principal structure and the lot. He noted that this structure would likely be mostly blocked from view of the road. He noted that there's an old horse barn on the property that will be removed when they build this accessory structure.

Mr. Pace noted that he understands the justification for granting the square footage variance given that this lot would be able to accommodate two 750 accessory structures under the current ordinance (if subdivided into two lots of corresponding size to neighboring lots), so in granting the square footage variance, the board would not be allowing more accessory structure square footage than would normally be possible on this amount of property. His concern remains with the height variance request. Mr. Chappell noted that the proposed height is still well below the total height of the principal structure.

Ms. Fawley noted that it's her conviction that strict application of the ordinance does restrict reasonable use of this property given the property's unusual size and the significant height of the principal structure.

There was brief discussion of the definition of accessory structure which includes the provision that it not exceed the height of the principal structure (implying that the height of the principal structure is something the board could consider in determining reasonableness of a variance).

Mr. Balthazor noted that, in making his motion, he's considering exceptional conditions of the property (size of the property) and that no neighbors showed up to oppose. Further, he proposed imposing a condition that the structure be placed where it is currently being considered for placement and not any closer to the road.

Mr. Balthazor made a motion to approve the variance with the condition that the structure be placed where it is currently being considered for placement and not any closer to the road. Ms. Fawley seconded. The motion passed unanimously.

IV. Adjournment

Ms. Fawley made a motion to adjourn. Mr. Balthazor seconded. The meeting was adjourned at 7:05P.M.

Respectfully Submitted,
Andy Smith, Assistant City Administrator/Finance Director
(Administrative support of Zoning Board of Appeals)