

PUBLIC HEARING
BOARD OF ZONING APPEALS
March 5, 2009

The Austintown Township Board of Zoning Appeals held a Public Hearing on Thursday, March 5, 2009, at the Township Building, 82 Ohltown Road, Austintown, Ohio, for consideration of Appeal Cases 2009-03-A and 2009-04-A.

The following Board members were in attendance:

Mr. Robert Satterlee – Chairman
Mr. Joseph Koch – Vice-Chairman
Dr. Thomas Stellers
Mrs. Dawn Owens
Mr. William Glaros

Chair Satterlee opened the public hearing at 7 P.M. All testimony in the following cases given under oath or affirmation. Court Reporter in attendance, complete transcript taken of the hearing.

Motion by Dr. Stellers to **APPROVE** the minutes of the January 29, 2009 meeting. Seconded by Mrs. Owens.

Roll call vote: Dr. Stellers - YES; Mr. Glaros – YES; Mrs. Owens – YES; Mr. Koch – YES; Mr. Satterlee – YES.

APPEAL CASE 2009-03-A

Matthew Davies, 2610 Vollmer Drive, Austintown, Ohio, 44511, appeals from the decision of the Austintown Township Zoning Inspector and requests variances from the terms of Article VI – Residence R-1 District, 601-Permitted Uses: Paragraph 2; Article VI – Residence R-1 District, 603-General Requirements: “Rear Yards”; and Article XVII-Supplementary District Regulations; Subsection 1711-Home Occupations, of the Austintown Township Zoning Ordinance, as amended through May 24, 2007, to allow the establishment of a home photography studio as an accessory use at the dwelling located at 2610 Vollmer Drive. The photography studio accessory use would be contained within a proposed addition measuring 21’8” x 20’ x 14’ to be placed 26 feet from the westerly rear property line. The minimum rear yard requirement is 40 feet. A home photography studio is not listed as a permitted accessory use in residential districts. Said property is zoned as a Residence R-1 District in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Darren Crivelli read the applicant's letter into the case record, referenced a site plan and elevation drawings, floor plans, a case mailing list, plat maps, ortho maps, and a letter of zoning determination issued to the applicant on January 13, 2009.

Chairman Satterlee stated the mailing list of those property owners notified for the cases would be incorporated into the case record.

Matthew Davies, 2610 Vollmer Drive stated that he secured signatures of support for the request from his immediate neighbors and submitted the signatures to the Board of Appeals, which was marked as Exhibit "A".

Michael Quaterman, 694 West Point Avenue, Akron, Ohio 44310 stated he was going to be the contractor for the job and would answer any questions regarding construction the Board may have.

Mr. Satterlee asked the applicant where he currently conducted his business. Applicant stated photography is currently being done off-site, mostly weddings. Is proposing studio work for family pictures, senior pictures, and pregnancy pictures. Studio would have fixed backdrops and props. Everything being used now is mobile.

Mr. Glaros asked how long he has been in business. Applicant responded since last October and he has 15 weddings booked, is preparing radio commercials and mailings to promote the business. Used his 401K to purchase a vehicle, cameras, and lenses.

Mr. Satterlee asked about the expected traffic at the property. Applicant stated he has adequate parking within his driveway. Submitted a Photograph marked as Exhibit "B" depicting the front and rear elevations of the dwelling.

Mrs. Owens inquired about the volume of customers for senior pictures. Applicant stated his wife has a medical condition identified as narcolepsy and lost her job. His wife could schedule customers between her naps, approximately two-hour window intervals to allow for changing of clothes and sets.

Mr. Satterlee asked if he considered leasing a building. Applicant stated that he did not want to lease do to his wife's medical condition, kids getting on and off the school bus, and the cost involved with leasing. The addition would be attached to the home, it could be depreciated as part of the business. The cost of advertising and heating another building would not make sense. Better earning potential with a home based business.

Mrs. Owens asked if any outside work would be conducted and if lighting would be used that could bother neighbors. Applicant stated that outside work would be conducted in the rear yard with natural light. Would not be hauling "flash" outside.

Mr. Satterlee confirmed with the applicant that the proposed rear yard will be 26 feet and stated the addition will consume a large portion of the backyard.

Dr. Stellars inquired about family life with a smaller backyard. Applicant stated his family uses the front yard more than the back and stated there is a major problem with bees in the rear yard.

Mr. Koch asked where his current studio is located. Applicant stated there is no studio. The business is operated using a laptop computer. Everything is digital, no chemicals or darkroom will be used.

Dr. Stellars asked about the liability to the neighborhood. Applicant stated he thought a new use would require a variance.

Mr. Koch asked about gross receipts for the business. Applicant projected his wedding business to gross about \$15,000 and about \$800.00 per day on senior pictures, which he stated was seasonal. Mrs. Owens stated senior pictures were not seasonal. Applicant stated they start in May and run through the summer.

No one else present in support of the request.

No one in attendance to speak against the request.

The Board recessed into executive session.

2009-03-A - Matthew Davies

Motion by Dr. Stellars to **DISAPPROVE** the request for a nonconforming business use and a setback variance. Seconded by Mr. Koch.

Roll call vote: Dr. Stellars – YES; Mr. Glaros – NO; Mrs. Owens – YES; Mr. Koch – YES; Mr. Satterlee – YES.

APPEAL CASE 2009-04-A

Christopher Todd Thompson, 110 Covington Cove, Austintown, Ohio, 44515, appeals from the decision of the Austintown Township Zoning Inspector and requests a variance from the terms of Article VI – Residence R-1 District, 604-Private Garages and Other Outbuildings, of the Austintown Township Zoning Ordinance, as amended through May 24, 2007, to allow a shed measuring 12' x 20' x 10' to remain as placed 5'6" from the westerly side property line. The minimum required unobstructed side yard setback is seven (7) feet. Said property is zoned as a Residence R-1 District in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Darren Crivelli read the applicant's letter into the case record, referenced a site plan, zoning permits issued allowing for construction of the dwelling and shed, case mailing list, plat maps, ortho maps, and two letters of zoning violation issued to the applicant on September 8, 2008 and January 20, 2009.

Christopher Todd Thompson, 110 Covington Cove submitted pictures regarding the elevations of his property prior to increasing the elevation of his property (Exhibits "A"). Stated the east and west sides of his property still flood and he could not construct the shed in the rear yard due to storm water issues. Dr. Stellars stated the pictures depict the property as it no longer exists. Applicant stated his property still floods.

Mr. Satterlee asked who filled out the zoning permit. Zoning Inspector Crivelli stated that Eric Harris filled out the zoning permit and stipulated to the applicant the shed could be no closer than five (5) feet from the side and rear property lines. Applicant stated he should have come back to update the permit, but instead, he followed the guidelines from the original permit and maintained the five foot setback when constructing the shed within the side yard. Applicant stated he contacted three contractors to inquire about moving the shed but was told it would be too difficult. He explained that there were 12 posts placed 4 ½ feet into the ground. He also stated that due to a small useable backyard, the shed and ramp would have reduced the amount of rear yard available for his family to use due to the swamp like condition of his rear property. He also stated he contacted the developer who had some questions about the private restrictions and the fact that the shed was not approved by the development design review committee.

Mr. Koch stated that he thought the shed reduced the value of the abutting undeveloped lot and that no one would want to build a house next to the shed. Also stated it was an eyesore the way it was placed in the side yard. Mr. Koch stated he saw a "For Sale" sign on the property and asked if anyone has made comments regarding the shed. Applicant stated that the comments he has received have been positive. No one has stated it was an eyesore. Mr. Koch stated "eyesore" may not be the right word but it looks awkward placed within the side yard, but moving it 18 inches would be a mitigating part of this decision. Mr. Koch stated it was movable if a contractor used the right equipment.

Amy Whitesell, 125 Covington Cove spoke in support of the request and stated it was not an eyesore, but rather appealing, and stated the abutting lot was unbuildable due to a ravine, wetlands, and storm water issues. No one in the neighborhood has a problem with the way the shed looks and it matches the house. She stated it was her opinion the abutting lot would never be sold.

No one else present in support of the request.

Dino Costello, 6715 Tippecanoe Road, Canfield, Ohio stated it was the best looking shed in the development but the applicant did not follow the recorded deed restrictions. Stated he contacted the township to review the permit and site plan and took issue with the Zoning Inspector's comment that the site plan had to show minimum setbacks. He also asked the Zoning Inspector if it was violating a front setback requirement. Zoning Inspector Crivelli stated it was not in violation of a front setback requirement and that an outbuilding is permitted on the side of a house as long as it meets the side yard requirements for a dwelling with attached garage. Mr. Costello further stated this would be another impediment in these economic times to building a house next door and this situation has reduced the value of the abutting lot. Mr. Satterlee stated that the applicant

could move the shed 18 inches and comply with the zoning requirements. Mr. Costello stated the shed could also be moved to the rear yard.

No one else in attendance to speak against the request.

Applicant stated there are numerous sheds in the development that do not meet the deed restriction requirements.

Kristen Thompson, 110 Covington Cove stated that if the shed could be moved 18 inches than there should be no concern with aesthetics. Mr. Satterlee acknowledged that fact but stated there was no curb appeal having a shed placed within a side yard.

The Board recessed into executive session.

Mr. Koch stated that he understood the Developer’s point of view but he has other legal options. He also stated the applicant only had to move the shed 18 inches to comply, but given that fact, he still does not like the placement of the shed in the side yard and further stated you should not be allowed to construct a shed in a side yard, although it is currently permitted.

2009-04-A – Christopher Thompson

Motion by Mr. Koch to **APPROVE** the variance request. Seconded by Mrs. Owens.

Roll call vote: Dr. Stellers – ABSTAIN; Mr. Glaros – ABSTAIN; Mrs. Owens – YES; Mr. Koch – YES; Mr. Satterlee – YES.

There being nothing further to come before the Board, the meeting was adjourned at 8:21 P.M.

AUSTINTOWN BOARD OF ZONING APPEALS

DARREN L. CRIVELLI, ZONING INSPECTOR

APPROVED: _____
ROBERT SATTERLEE, Chair

DATED: _____