CITY OF NORTON SHORES
ZONING BOARD OF APPEALS
July 15, 2020

A regular meeting of the Norton Shores Zoning Board of Appeals held remotely was called to order on Wednesday, July 15, 2020 at 4:00 p.m.

Present: Vice Chair Otto and Board Members Hill, Maniates, Philips, Sowa and White; also, Doug Hughes, Ted Woodcock and Shelly Stibitz

Absent: Chairperson Hegarty

20-A04 Minutes

Board Member Maniates moved to approve the minutes of the February 19, 2020 Zoning Board of Appeals meeting. The motion was supported by Board Member White and carried unanimously on a roll call vote.

20-A05 Variance Request – Accessory Building, 1447 Shettler Rd., Jones

The City Clerk certified the July 3, 2020 mailing and publishing of the notice.

A public hearing was held. There were no comments.

Board Member Philips made a motion to grant a variance to allow Jeremy Jones to construct an accessory structure in the front yard of the property at 1447 Shettler Road, deviating from City Ordinance which allows only side or rear yard placement based on: 1) The Variance is in harmony with the general purposes and intent of the Ordinance in this instance because there is a drop off in the back yard; 2) There are practical difficulties in carrying out the strict letter of the Ordinance due to the topography of the property; and 3) The Variance is not substantial as it relates to the zoning requirements because a structure in the front yard is not easily seen from the road. The motion was supported by Board Member Maniates and carried unanimously on a roll call vote.

20-A06 Variance Request – District Regulations, 3705 Farmwood Drive, DeMuro

The City Clerk certified the July 3, 2020 mailing and publishing of the notice.

A public hearing was held. There were no comments.

Board Member Maniates made a motion to grant a Variance to allow Ben DeMuro to construct a front porch that is 22 feet as required by City Ordinance at 3705 Farmwood Drive based on: 1) The Variance is not substantial as it relates to the zoning requirements because the structure will not protrude past the existing porch; and 2) The Variance will not substantially change or affect the character of the neighborhood because other homes have similar structures. The motion was supported by Board Member Hill and carried unanimously on a roll call vote.

20-A07 Variance Request – District Regulations, 4396 Davis Road, DeTorres

The City Clerk certified the July 3, 2020 mailing and publishing of the notice.

A public hearing was held. There were no comments.

Board Member Philips made a motion to grant a variance to allow Frederick DeTorres to construct an accessory structure that is 19 feet from the front yard property line, deviating 11 feet from the minimum required 30 feet, on the property at 4396 Davis Road based on: 1) There are practical difficulties in carrying out the strict letter of the Ordinance because of the slope and wetlands in the middle of the property; 2) The Variance is not substantial as it relates to the zoning requirements because many lakefront homes in the area have street-side front yard accessory buildings; and 3) The plight of the landowner is due to circumstances or conditions unique to the property in that a power pole exists in the front yard right-of-way setback restricting placement of an accessory structure. The motion was supported by Board Member White and carried unanimously on a roll call vote.

20-A08 Variance Requests (2) – Specific Land Use, 4769 Harvey Street, Camp Bow Wow

The City Clerk certified the July 3, 2020 mailing and publishing of notices.

City Planner Ted Woodcock relayed that the applicant was requesting two variances for one parcel related to a proposed building that includes four suites and one animal "camp" boarding kennel with the first request related to distance from an existing structure and the second for distance from the side yard lot line.

A public hearing was held. Ms. Rhonda Bailey, owner of Kaley Park Kennels, an adjacent business, shared opposition based on another animal boarding facility sharing the same lot line and the distress it would cause to the animals. She is concerned about the health and safety of animals in her kennel and that the proposed facility would be within 25 feet of her existing kennel. The homeowner of 4721 Harvey Street, Mr. Barry VanderWall, is also opposed to another facility being built and completely surrounding his home with commercial buildings and interfering with his personal privacy. He feels this would significantly limit the resale value of his home and property.

Council Member Hill made a motion to deny the variance allowing BCI Construction and TJA Architecture, agents on behalf of Camp Bow Wow, to construct a structure and outdoor kennel area within 300 feet of the adjacent residential structures at the proposed kennel at 4769 Harvey Street based on: 1) The Variance will create a substantial detriment or adjoining property owners; and 2) The Variance will change or affect the structure of the neighborhood. The motion was supported by Board Member White and carried unanimously on a roll call vote.

20-A09 Council Member Hill made a motion to deny the variance allowing BCI Construction and TJA Architecture, agents on behalf of Camp Bow Wow, to construct a structure and outdoor kennel area within 100 feet of the side lot line at the proposed kennel at 4769 Harvey Street based on: 1) The Variance will create a substantial detriment or adjoining property owners; and 2) The Variance will change or affect the structure of the neighborhood. Board Member Maniates stated that he felt the magnitude of the project and lot size did not make sense; he was not concerned that a similar facility is adjacent to the parcel as competition is good; he questioned the amount of screening material proposed to break-up the visual effect to adjacent properties; the amount of parking spaces needed for all the businesses would change the nature of the neighborhood and he felt that the developer could have approached neighboring property owners to obtain feedback. The motion was supported by Board Member White and carried unanimously on a roll call vote.

General Comments

Following difficulty in connecting by video conference, Doug Kloostra, BCI Construction, was able to teleconference and comment on the proceedings. Mr. Kloostra stated that he did not comment during the public hearing and thought there would be a separate comment period for the applicants. Vice Chair Otto apologized and City Attorney Hughes confirmed that there was opportunity for the applicants to speak during public comment. The Zoning Board of Appeals then granted Tim Allspach, TJA Architecture, the chance to describe the proposal. Mr. Allspach felt that the request for variances met the standard of a unique situation with the long narrow property and the facility would fit the spirit and intent of the Ordinance in the way they contain the noise and odor of the animals. The amount of landscaping proposed was intentional to further mitigate noise and odor and, also, included consideration of plantings that drop their leaves in the fall. The maker of the motion, Board Member Hill, stated that the information presented did not prompt him to change his motion. Tammy Meyers, Camp Bow Wow owner, shared with the Board that safety is a top concern for her business and the facilities do not have the normal kennel noise because of the mitigation measures taken. Mr. VanderWall spoke again stating that it would have been beneficial to see the landscaping plans prior to the meeting. Mr. Kloostra asked if the commercial building or the kennel use next door was the basis of the denial. City Attorney Doug Hughes stated that the proposal was for the kennel that required variances that were not approved and referred him to Mr. Woodcock for site plan requests.

Meeting adjourned at 5:07 p.m.

Shelly Stibitz

Shelly Stibitz, City Clerk