

**Board of Adjustment
MINUTES
March 19th, 2020**

PRESENT: Jane DeAustin, Dan Gottwalt, Matt Marx, Marvin Neubert
Staff: Sean Moe, Karen Loehrer

1. Sean called the meeting to order followed by the Pledge of Allegiance.
2. Election of Officers: Marvin moved to nominate Mark Kaschmitter as Chair. Matt seconded and the motion carried. Marvin moved to nominate Jane DeAustin as Vice-Chair. Matt seconded and the motion carried.
3. Dan moved to approve the agenda. Matt seconded and the motion carried.
4. Marvin moved to approve the minutes from the February 20th, 2020 meeting. Matt seconded. Jane abstained. The motion carried.
5. 7:03 p.m. File #20-056, Dale and Nancy Herbst requesting a variance to add an attached garage to an existing dwelling that would be 40ft from the property line (50ft required) in the Agricultural District. Pursuant to Sections 7.1.30a and 11.5.1. The affected property is described as follows: part of the SW1/4 NE1/4, Section 25, Gilmanton Township.

All four members were present for the on-site inspection of this property with Sean.

Dale Herbst stated that currently they have a detached garage. The request is to add an attached garage to the west side of the house that would be 40ft from the property line where 50ft is required. He stated that the septic is on the east side of the house. Dale stated that he lives in the house to the east and owns the surrounding properties.

No one spoke in favor, opposition or with general comments. Matt moved to close the public hearing. Dan seconded and the motion carried.

In reviewing Section 11.5.1 the vote was as follows:

- 1) Marvin stated that houses are permitted in the Agricultural District according to Section 7.1. Matt moved to approve. Dan seconded. The vote was unanimous that the proposed use is not prohibited in the zoning district in which the subject property is located.
- 2) Matt cited Sections 2.1.3 and 2.1.12. Marvin added Section 2.1.1. Dan added the development conditions. Matt moved to approve.

- 3) Marvin seconded. The vote was unanimous that the variance is in harmony with the general purposes and intent of the official controls.
- 4) Dan cited Quality of Life Goal #2, Policy #2. Life Cycle Housing. Marvin moved to approve. Matt seconded. The vote was unanimous that the terms of the variance are consistent with the comprehensive plan.
- 5) a. Jane stated that the addition of an attached garage and additional living space to an existing dwelling within the Ag Zoning District, where single family homes are permitted is a reasonable use. Dan moved to approve. Matt seconded. The vote was unanimous that the property owner proposes to use the property in a reasonable manner not permitted by an official control.
- b. Marvin stated that the applicant bought the property a few months ago. The home was built in 1969 prior to setback requirements, which is not fault of the owner. Jane moved to approve. Dan seconded. The vote was unanimous that the plight of the landowner is due to circumstances unique to the property, not created by the landowner.
- c. Matt stated that it is common to have an attached garage on homes constructed today, and adding an attached garage will make the residence look better. Marvin moved to approve. Dan seconded. The vote was unanimous that the variance will not alter the essential character of the locality.
- d. Dan stated that the septic is on the east side of the house so the addition cannot go on that side. Marvin stated that a smaller addition wouldn't allow for much living space. Matt moved to approve. Jane seconded. The vote was unanimous that the need for the variance involves more than economic considerations.

Sean read the findings and conditions.

Findings

1. The proposed use is not prohibited in the zoning district in which the subject property is located.

Single family dwellings are a permitted use in the A, Agricultural District according to Section 7.1 of the Development Code.

2. The variance must be in harmony with the general purposes and intent of this ordinance.

The Board of Adjustment shall determine which Sections apply to the variance request.

Section 2.1.1 To promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

Section 2.1.3 To promote the orderly development of residential, business, industrial, recreational and public areas.

Section 2.1.12 To further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations.

The development conditions for File No. 20-056 are adopted.

3. The terms of the variance must be consistent with the comprehensive plan.

Quality of Life

Goal #2

Policy #2. Life Cycle Housing: Promote the improvement and maintenance of the existing housing stock to provide sanitary living conditions and ensure that an adequate amount of housing is maintained, including retrofitting existing homes to better serve families in need of affordable housing.

4. The landowner must show that the variance is necessary to alleviate practical difficulties in complying with the official control. "Practical Difficulty" as used in connection with the granting of a variance means:

- a. The property owner proposes to use the property in a reasonable manner not permitted by an official control.

The addition of an attached garage and additional living space to an existing dwelling within the Ag zoning district, where single family homes are permitted is a reasonable use.

- b. The plight of the landowner is due to circumstances unique to the property, not created by the landowner.

The dwelling was constructed in 1969 without an attached garage and prior to the setback requirements outlined in the development code, which is not the fault of the owner who bought the property last year.

- c. The variance, if granted, will not alter the essential character of the locality.

It is common to have an attached garage on homes constructed today, and adding an attached garage will make the house residence look better.

- d. The need for the variance involves more than economic considerations.

The addition cannot be located on the east side of the home due to the location of the septic. A smaller addition would result in the upper living space looking at the detached garage to the north.

Conditions:

1. This variance is approved for the location shown on the plans submitted with this application and is not transferable to other land.

2. A Land Use and Building Permit shall be obtained prior to any construction and shall be consistent with the plans and specifications submitted with the variance application.
3. Pursuant to Section 11.5.2 of the Development Code, this variance shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work. To proceed substantially means to make visible improvements to the property and to have had applied to the property at least 40% of the people hours which it is reasonably estimated will be necessary for completion of the project. The Board of Adjustment may grant an extension of six months to complete the project if a written request for additional time is filed with the Board of Adjustment prior to the date of expiration of the variance. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.
4. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to insure that the permit holder is in compliance with the conditions of approval and all other applicable statues, rules and ordinances.

Dan moved to accept the findings and conditions and grant File #20-056. Matt seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

6. Matt moved to adjourn at 7:23 p.m. Dan seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary