

Village of Youngstown

VILLAGE CENTER • 240 LOCKPORT STREET
P. O. BOX 168
YOUNGSTOWN, NEW YORK 14174-0168



INCORPORATED:
APRIL 18, 1854

TELEPHONE:
(716) 745-7721
FAX:
(716) 745-3400

Thursday, October 18, 2018

The meeting of the Village of Youngstown Zoning Board of Appeals was called to order at 6:36 p.m. with the Pledge to the Flag.

Present: Chairperson William Oddy, Member Lisa Lucas, Member Patrick Howey, Member Dave Gratz, Member Tyler Finkle, Building Inspector John Stevens, Zoning Board of Appeals Clerk Amy Freiermuth

Chairperson Oddy opened the meeting by stating that there were two applications for variances on the agenda for the evening. He stated that the Zoning Board uses five questions as a guideline when making their decision. He read that no area variance will be granted without consideration by the board of the following factors:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance.
3. Whether the requested variance is substantial.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood.
5. Whether the alleged difficulty was self-created.

Public Hearing for Scott Szarejko, 400 Lockport Street, Youngstown; Tax Map ID 45.18-4-68 from denial of building permit #058-2018 for a pole barn.

Chairperson Oddy read the public hearing notice:

VILLAGE OF YOUNGSTOWN ZONING BOARD OF APPEALS NOTICE OF PUBLIC HEARING

NOTICE IS HEARBY GIVEN THAT, pursuant to Village Law and the Zoning Ordinances of the Village of Youngstown, a public hearing will be held by the Zoning Board of Appeals, at the Village Center, in the Board Room at 240 Lockport St., Youngstown, NY on October 18, 2018 at 6:30 p.m. for the purpose of hearing and considering the following applications for a variance:

Appeal by Scott Szarejko, for property located at 400 Lockport Street, Tax Map ID: 45.18-4-68 from denial of building permit #058-2018 for a pole barn. According to Village Zoning Law, no accessory building may exceed 15 feet in height. A variance of approximately 11 feet 2 inches is requested to accommodate

construction of the pole barn with 16 foot walls and a roofline with an approximate 5/12 pitch with gable ends. The overall height of the pole barn would be approximately 26 feet 2 inches in height.

The onsite inspection for the above application will occur on October 18, 2018 at 5:30 p.m.

Chairperson Oddy stated that he read the legal notice with modifications as presented by the applicant after the notice was published and stated that the original request was for a variance of 13 feet 3 inches with an overall height of 28 feet 3 inches.

Chairperson Oddy read the letter submitted by Scott Szarejko requesting the variance (as filed).

Member Lucas asked Mr. Szarejko what his intended use of the building includes. Mr. Szarejko stated that he needs a “toy box”. He said he it would have zero business use and would be used to store his camper, his Trans Am and other vehicles.

Member Howey asked Building Inspector Stevens if there were other barns that were granted a similar variance. Building Inspector Stevens stated that a variance was given to Timothy Lockhart on Oak Street and Mark Fox and Lockport Street. Member Howey stated he was concerned that if a variance was approved for more than 1 or 2 feet that it would set precedence for the future. Member Lucas stated that Mr. Lockhart was granted a 5-foot variance with the stipulations that there is no commercial use, no apartments and no residence included in his structure.

Mr. Szarejko stated that he was aware of the variances granted for Mr. Fox and Mr. Lockhart and asked if there were any variances granted for his neighbor across the street. Building Inspector Stevens stated that no variances were needed for the buildings constructed that he was referring to. Member Howey stated that there are some buildings in the Village that predate the height restrictions in the current code.

Chairperson Oddy stated that Mr. Szarejko modified his plans since the original application and asked if the edge of the gutters would still be 16 feet off the property line. Mr. Szarejko stated it would be 16-feet and that he is willing to move the building over further onto his property if requested. Chairperson Oddy asked if he still intended to plant trees on the perimeter of his property and Mr. Szarejko said yes.

Member Lucas stated that Mr. Fox’s variance was for 5 feet and his building is 20 feet tall.

Chairperson Oddy opened the public hearing and asked if anyone would like to speak. Gary Smith at 375 Brookshire Road asked how far from the rear of the property did Mr. Szarejko intend to build his barn. He also asked why the building is going to be so tall. Mr. Szarejko stated that the survey shows the placement of his proposed building. He also stated he has a camper that is over 13 feet tall and therefore he needs the garage door to be tall enough to accommodate the camper and the air conditioning unit on top.

Mr. Smith stated he was concerned because Mr. Szarejko had many ash trees that died and were removed and he would prefer to not see the back of a tall building while outside enjoying his backyard. He stated he was concerned about property values if the roof is as high as requested and wonders what would stop the next person from applying for a taller height variance. He stated that there are codes for a reason and that his

concerns are not personal against Mr. Szarejko, but he does not feel that “storing his toys” is a good enough reason for such a tall building.

Chairperson Oddy informed Mr. Smith that each variance is granted on a case by case basis according to the five rules that were read at the beginning of the meeting. Mr. Smith stated he felt that three answers to the guideline are questionable for this application. Chairperson Oddy stated that the request is for an area variance, not a use variance and that the code says Mr. Szarejko cannot run his business out of this building. Member Howey stated that not every question needs to be answered with a no in order for the variance to be approved. Mr. Smith stated he understood the questions are a tool to help with the decision. Member Howey stated that Mr. Szarejko probably needs such a large building to house his items so that everything is secure.

Member Howey stated that when he was standing in Mr. Szarejko’s back yard during the on-site inspection, he could not see the homes on Brookshire through the trees. Mr. Smith stated that because of the trees that died, the area is much more open and once all the greenery is gone for the winter it will be much thinner than in the past. Mr. Szarejko stated that the Church cleared their land to the back of the houses on Brookshire and he does not intend to do the same. He stated they did not want to remove the trees, but had to because they were dead. Mr. Szarejko continued that he doesn’t want to see the back of homes on Brookshire as much as those residents don’t want to see the back of his barn.

Nancy D’Aracangelo from 385 Brookshire stated that there is standing water in many back yards on Brookshire and wonders what building this large building will do to the water table. She stated that the trees absorbed the water but with them removed wonders if it will alter drainage. Chairperson Oddy stated that this is a good concern. Mr. Szarejko stated that the gutters from the barn will drain to the storm sewer and although a few areas do puddle, he feels that those spots are actually drier with the trees gone. He stated that the low spots will be removed from the area with the construction of his barn.

Member Finkle asked if there is an alternative to the trusses if a 14 foot door is required that would reduce the height of the building. Mr. Szarejko stated that he may be able to reduce the building height by 6 inches. Member Finkle asked if there were any other options such as moving the door to the center of the building to reduce the height. Mr. Szarejko stated that if the door was centered, he thought he would have to change the type of truss, therefore increasing the cost.

Member Howey asked who the neighbor was directly behind Mr. Szarejko’s property and said that in the past it was a Village sub street. Peggy Hanson, Chairperson of the Planning Board, was in attendance and stated that the sub street originally went from Brookshire Road all the way to Lockport Street but is now a sub street on Brookshire only.

Member Finkle asked if a stick frame building would decrease the height. Building Inspector Stevens stated that scissor trusses may help, but it would increase the cost of construction. Mr. Szarejko stated that the peak height needs to be the same even if he moved the door to the center of the building.

Chairperson Oddy asked if anyone else from the public had anything to add. With no further discussion, a motion was made to close the public hearing by Member Lucas and seconded by Member Finkle. All in favor, motion carried.

A motion was made to approve the height variance of 11 feet 2 inches by Chairperson Oddy and seconded by Lisa Lucas.

With no further discussion, roll was called:

Chairperson Oddy: No

Member Lisa Lucas: Yes

Member Howey stated that this was a tough decision, and prior to his answer asked if he should recuse himself because Mr. Szarejko is his neighbor across the street. Chairperson Oddy stated that in a one-square-mile Village everyone is a neighbor. He stated that Member Howey should cast an unbiased vote based upon the options that were presented during the meeting.

Member Patrick Howey: No

Member Dave Gratz: No

Member Finkle verified the specifications of the vote at 11 feet 2 inches. He stated that he feels that the building can be closer to the code and that the variance is too large to be approved as presented.

Member Tyler Finkle: No

Chairperson Oddy stated that with the roll call vote, the variance of 11 feet 2 inches is denied. He continued that the variance request was 2xs the code allowances while other buildings were granted 5 feet, he feels that there needs to be a “lower” option available.

Member Lucas stated that she feels that this building would be more visible to the road than the other buildings and perhaps it should be lower than the house or moved more behind the house.

Member Howey asked if the Board should offer a maximum variance amount so that Mr. Szarejko can move forward with alternate plans. Chairperson Oddy asked Mr. Szarejko what is an acceptable height for the structure. Mr. Szarejko stated that the door needs to be 14 feet to accommodate the camper. He stated he did reduce the height from the original request and felt that his proposal was a good solution. He stated he did not want three or four buildings to accommodate his needs because he feels that his property would look like he is a “junk collector” rather than one contained unit. Member Howey asked what would work for the height. Mr. Szarejko stated he would need to redraw the plans and he did not know off the top of his head.

32.55 Member Finkle commented that he liked the design of the building and that for this lot it makes sense for Mr. Szarejko to be able to do this project -- as long as it is not to the detriment of others. He stated that there is room for conditions on the variance and that perhaps it could be implemented that Mr. Szarejko be required to plant something that would help increase privacy throughout the year as well as insulate for noise. He continued that the back of the building is a large, broad area with no windows or doors and it could be imposing to the neighbors.

Chairperson Oddy asked if the type of the trusses could decrease the height. Building Inspector Stevens stated that the garage door needs a certain amount of clearance and he was not sure if that could be decreased based upon the size of the door. Mr. Szarejko said that he would discuss the options with his door installer. He stated that currently the door is 14 feet tall by 12 feet wide. He stated he feels that scissor trusses would be more expensive.

Chairperson Oddy stated he did not want to approve an arbitrary variance as suggested by Member Howey.

Mr. Szarejko stated that he will be planting 6 foot tall evergreen trees. Tammy Szarejko stated that she is upset that they had to remove so many trees because she prefers her privacy as well. She stated they would prefer to plant fast grow trees. Chairperson Oddy asked the neighbors in attendance if trees would help to solve the privacy concerns. Mr. Smith stated that he felt that if more trees were planted, it would certainly help. Mr. Szarejko stated he was happy to work with them to come up with a solution that would work for all parties.

Building Inspector Stevens asked what is needed as the maximum height for the door. Mr. Szarejko stated he thought it was 14 feet due to the height of the camper, but he would double check because perhaps this was an area where they could decrease the height.

Chairperson Oddy stated that because the public hearing was closed, and the original variance was denied, the Board could accept an alternate option and would be willing to table that alternate request so that Mr. Szarejko could determine what was necessary to reduce the height. He suggested the alternate plans variance request be under 10 feet. He stated that if needed, a meeting for a later date could be scheduled this evening for review of this alternate plan. Mr. Szarejko asked if he could have a few minutes to see if he could contact his door installer/manufacture so that he may be able to offer that alternative this evening rather than having to call another meeting. Chairperson Oddy stated that the Zoning Board would continue with the agenda to allow him time to alter his plans now.

Member Howey stated again that Mr. Lockhart received a five-foot variance and each variance is granted on a case-by-case basis.

A motion was made to table the final decision on the height variance for Mr. Szarejko by Chairperson Oddy. He stated that the board would discuss the next agenda item to allow Mr. Szarejko time to revisit the design and to offer alternatives to lower the peak of the roof as much as possible. The motion was seconded by Member Finkle. All in favor, motion carried.

Public Hearing for Barbara Chassar and Dale Halvarson, 135 Main Street, Youngstown; Tax Map ID 45.18-1-68 for nonconforming construction on building permit #056-2018.

Chairperson Oddy read the public hearing notice:

Appeal by Barbara and Dale Halvarson, for property located at 135 Main Street, Tax Map ID: 45.18-1-68 for nonconforming construction on building permit #056-2018. Construction within the original footprint was

approved, however the “bump out” on the south side of the home was not included or approved in the original construction plans. A variance to allow this “bump out” outside of the original footprint is requested.

The onsite inspection for the above application will occur on October 18, 2018 at 6:00 p.m.

Chairperson Oddy read the letter submitted by Barbara Chassar and Dale Halvarson requesting the variance (as filed).

Chairperson Oddy stated that because this is a Type II action, a SEQR is not required.

Chairperson Oddy stated that the bump out is approximately 16-18 inches from the property line. He stated the house is in a R-15 zone and the side yard setback is a minimum of 10 feet. He continued that the bump out is a little less than 2 feet. Mr. Halvarson stated it is 17 inches plus siding. Chairperson Oddy stated that the variance would need to be 8 feet 6 inches. Member Finkle stated that the variance is not on the ground, but is raised as the bump out is raised. Member Howey did not understand Chairperson Oddy’s calculation for the variance at 8 feet 6 inches. Chairperson Oddy explained that the minimum side lot requirement is 10 feet. Right now (with the bump out), it is only about 16 inches, which would require an 8 foot 6 inch variance:

120 inches (10 feet)
minus 16 to 18 inches
104 inches (approximately 8 feet 6 inches).

Member Lucas stated she felt that the issue is not the 8 feet 6 inches but rather the 16 inches to the bump out. Chairperson Oddy stated that the variance is granted as per the current code. He explained that the house was “grandfathered” because it was a renovation on the original footprint, however because the bump out was not included in the original footprint of the home, the variance now becomes based on the current code. Mr. Halvarson asked if there was an original variance on the home and Chairperson Oddy stated that home was built prior to the current code requiring the setback. Chairperson Oddy stated that he felt it was better to include the house in the variance now so that it does not affect anyone in the future.

Member Howey stated that he feels that you cannot see the bump out from the street. He continued by reading a portion of a letter from neighbors Paul and Patti Oleson (201 Main Street):

We do not want to be difficult neighbors and would like to work with them. However, we would like the village to confirm and guarantee in writing that this unapproved feature does not pose a fire hazard to our home or to any fence, trees, or bushes that may be added to our property in the future near the vent. This is the only access we have to our backyard and we use that walkway several times a day.

Member Howey asked if the Village could or even should confirm a guarantee. Mr. Halvarson stated that the vent is outside the house and the fireplace is installed as per manufacture’s specifications. Building Inspector Stevens stated that if the variance is granted, the feature is no longer unapproved. He continued that the State Codes and the ICC (International Code Council) state that the vent installation must follow the manufacture’s specifications. He stated there is not a specific State Code that addresses vents placement, etc., specifically.

Building Inspector Stevens stated that it is not the Village's responsibility to guarantee against a fire hazard. Chairperson Oddy stated that the Board is to approve or not approve the structure as built as per code. In this case, State Codes require that manufacture's specifications have been followed. Member Lucas asked Mr. Halvarson if he had the paperwork for the vent. Mr. Halvarson provided her with the book that came with fireplace installation.

Member Finkle asked Building Inspector Stevens how tall of a fence could be installed. Building Inspector Stevens stated it could be six feet tall from the front of the house to the rear of the property and three feet six inches in front of the home. Member Finkle stated that the manufacturing specifications require 18 inches of air space to vent and asked if that would cause damage to a vinyl fence located on the property line. Chairperson Oddy stated that it was a good point to consider for any future neighbor as well.

Mr. Halvarson stated that the drainage has been leveled. Member Lucas asked about the pipe along the side of the home. Mr. Halvarson stated that everything drains to a downspout in the rear of the house.

Member Finkle stated that if the vent would be an issue for a six-foot fence should the vent be moved higher up on the bump out. Building Inspector Stevens stated that currently the clearance amount would be met if a fence was installed and was not sure that because the fireplace has already been installed if the vent could be moved. Mr. Halvarson stated that the vent is currently 4 feet from the adjacent structure which far exceeds the manufacturing specifications.

Ms. Chassar stated that the space between their home and the neighbors is a common area walkway. She continued that she has spoken with a landscaper about plantings and showed those ideas to her neighbors who seemed open to the ideas. She also stated that the landscaper did not feel that the vent would create any issues with the planned landscaping.

Member Finkle stated that when he lived in Rhode Island this type of fireplace was commonly installed in neighborhoods with homes/fences/landscaping much closer together than this situation. He stated that he did not experience or hear of any issues with the vents being too hot or causing any problems.

Chairperson Oddy opened the public hearing and asked if any members of the audience wished to address the Board. With no comment, a motion was made to close the public hearing by Member Gratz and seconded by Member Finkle. All in favor, motion carried.

A motion was made to approve the bump out as built by Member Howey and seconded by Member Finkle.

With no further discussion, roll was called:

Chairperson Oddy: Yes

Member Lucas stated she did not want to give anyone a hard time, but did not agree with the variance.

Member Lisa Lucas: No

Member Howey stated that his answer was yes based on his feeling that the bump out is not an undesirable change or a detriment to the neighborhood. He felt that there is not really an alternative at this point and that this is not a substantial variance. He continued that he did not think there would be an adverse impact on the environment and stated that the designer built the bump out although the homeowner wanted the fireplace. He stated that the applicant has done a beautiful job on the home renovation thus far.

Member Patrick Howey: Yes

Member Dave Gratz: Yes

Member Finkle stated that he did not feel it was a detriment to the neighbors and felt that the safety issues were address as long as the vent was installed as per manufacture's specifications. Member Howey stated that the fireplace would be used most often in the winter months.

Member Tyler Finkle: Yes

Motion carried.

Chairperson Oddy asked Mr. Szarejko if he was prepared to continue with his variance request. Mr. Szarejko stated he was able to contact his door installer/manufacture and he needs a minimum of one foot above the door for clearance. He continued that 25 feet is his preferred height for the roof line (which would require a 10 foot variance).

Chairperson Oddy stated that the Board could stipulate that the peak of the roof not be more than 25 feet high above the 6 inch church garage slab allowing for a 10 foot variance. He also stated that plantings could be required in the rear of the building and along the Church side.

Member Howey stated he was aware of the concerns of the neighbors and felt that this would address those concerns. Mrs. Szarjeko stated that she wants the trees as much as the neighbors do for privacy.

Building Inspector Stevens stated that the drainage concern that was addressed by the neighbors is not because of the removal of trees from Mr. Szarjeko's property. He stated he felt that the drainage issues were due to residents on Brookshire putting brush and grass clippings into the drainage ditch and causing blockages.

Member Finkle asked if the thought was to approve the height of 25 feet. Chairperson Oddy confirmed. He stated he felt it was a large variance, but that the property was very unique in that it is next door to a Church and large parking lot. Chairperson Oddy stated that the uniqueness of the property is taken into consideration when making the decision. He also stated it would probably be preferred by the neighbors if the camper was in the barn as opposed to sitting in the driveway.

A motion was made to approve a 10 foot height variance for a pole barn with the finished floor no more than 6 inches above the top of the slab of the Lutheran Church's garage (to the east of Mr. Szarjeko's property). In addition, trees must be planted to block the view of the garage from the neighbors. The motion was made by Chairperson Oddy.

Member Gratz asked if Mr. Szarjeko was his plans were for lighting. Mr. Szarjeko stated that he does not intend to install any motion detection lights and does not want to bring attention to the building. He continued that lighting would be minimal and there would be no spotlights on the building.

Member Finkle seconded the motion.

With no further discussion, roll was called.

Chairperson Oddy: Yes

Member Lisa Lucas: Yes

Member Howey stated that his answer was yes based on his feeling that the barn would not cause an undesirable change to the neighborhood as it would not been seen by most residents. He felt that this barn is a good solution for the RV as it will be indoors and safe. He said that the variance is a little bit significant, but that was ok and was pleased that Mr. Szarejko reduced the height. He continued that he did not think there would be an adverse impact on the environment and stated that although this is a self-created situation, there is a need from the petitioner.

Member Patrick Howey: Yes

Member Dave Gratz: Yes

Member Gratz stated that he felt that the property accommodates the request.

Member Tyler Finkle: Yes

Motion carried.

Chairperson Oddy thanks Mr. and Mrs. Szarejko for working with the Board and agrees that one building is a better option than three or four structures.

Chairperson Oddy stated that because this is a Type II action, a SEQR is not necessary.

A motion to adjourn the meeting at 8:02 p.m. was made by Member Finkle and seconded by Chairperson Oddy. All in favor, motion carried.

Respectfully Submitted,

Amy L. Freiermuth
Clerk, Zoning Board of Appeals