



BOARD OF ZONING APPEALS
Thursday, August 22, 2024, 7:30 PM
CITY HALL
301 SYCAMORE STREET, BROOKVILLE, OHIO 45309
(937) 833-2135
www.brookvilleohio.com

Agenda

- I. Opening**
 - a. Call to Order
 - b. Pledge of Allegiance
 - c. Roll Call
- II. Adoption of Agenda**
- III. Approval of Minutes**
 - a. Approval of Minutes from February 29, 2024
- IV. Application for Zoning Variance - AmVets Post 1789**
- V. Reports**
 - a. Law Director
- VI. Old Business**
- VII. New Business**
- VIII. Adjournment**

Chairperson Kathleen Dafler
Members: • Chip Hills • Gary Kirchhofer • Christopher Marshall • Tony Perry



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Brookville Board of Zoning Appeals
Regular Meeting
February 29, 2024

The Regular Meeting of the Brookville Board of Zoning Appeals was called to order by Chairperson Dafler at 7:30 p.m. on February 29, 2024. The meeting was held in the City Council Chambers and virtually using Webex. The Pledge of Allegiance was recited. Members Dafler, Kirchofer and Marshall; Law Director Stephan, Manager Kuntz and Clerk Duncan were present.

Roll call by Clerk Duncan.

Motion by Kirchofer, second by Marshall to adopt the Agenda as presented. All yeas, motion carried.

Clerk Duncan announced this hearing is to consider Variance #24-01 for a 50' x 80' proposed storage building at 645 S. Wolf Creek Street. A notice of this hearing was published in the February 21 and February 28 editions of the Register Herald. Notices were sent to property owners within 200 feet of the property as required by Chapter 1111 of the Code of Ordinances. Clerk Duncan advised the city office did not receive any inquiries regarding this hearing.

Clerk Duncan asked if any Member needs to abstain from participating in this hearing?

No one indicated the need to abstain.

Clerk Duncan administered the Oath of Witness to Kyle O. Volk of 345 S. Wolf Creek Street, Brookville, Ohio 45309 and Cheri Simon of 12589 Airhill Road, Brookville, Ohio 45309.

Law Director Stephan reported Kyle Volk has filed an application for zoning variance. A copy of the application for zoning variance is attached. The variance request is to construct a 50' X 80' storage building (4,000 square feet) on a 2.006-acre lot. The lot has 150' of frontage and is 358' deep. The proposed building would be located in the rear yard behind their existing single-family home. The size of this proposed storage building exceeds the maximum size for a detached garage of 768 square feet as specified in Section 1157.03 of the Code of Ordinances. Chapter 1111 of the Code of Ordinances sets forth procedures for appeals and variances by the Board of Zoning Appeals. Under Section 1111.06(h), the Board of Zoning Appeals may grant a variance to increase the maximum gross floor area of any use so limited by the applicable regulations but generally not more than 25 percent. The property abuts Perry Township on its south border, and there are a number of storage buildings or barns on the properties in the township immediately south of this property on Wolf Creek Pike. Law Director Stephan advised a notice of this Public Hearing was mailed to the adjoining property owners and published in the Register Herald. Law Director Stephan advised the applicant presented a letter from adjoining property owner Dan Rice, of 12269 S. Wolf Creek Street, dated February 28, 2024, which reads as follows: My name is Dan Rice, I live at 12269 S. Wolf Creek Street. I have no issues with Kyle building whatever size building he would like on his property. Any questions, please give me a call at 937-603-2493. The letter was signed by Dan Rice. Law Director Stephan stated Mr. Rice's property is in Perry Township, immediately south of Mr. Volk's property.

Mr. Kyle Volk, of 645 S. Wolf Creek Street, stated his parents built the house when his dad left Korea, making it a legacy to him. When his parents passed away, he inherited the house and fifty years of contents, which are emotionally hard to get rid of and he does not want to be rushed. Mr. Volk stated he and his wife have been married for 30 years, and own a property in Englewood, along with all of the items they have accumulated over the years. Mr. Volk stated they need a safe place to put these items as well. Mr. Volk stated his in-laws are also in poor health, and have a shopping addiction, so they have a lot of accumulated items to deal with. Mr. Volk stated he also has lawn equipment and a camper that he would like to get out of the elements. The reason he is asking for this variance to build a larger building is to store the camper, his lawn equipment and all of these items accumulated from various sources. Mr. Volk stated they have also been caretakers of a neighboring property in exchange for storage. That property has been sold and they need to move their stored items.

Chairperson Dafler asked Mr. Volk if his lawn equipment is part of a business?

Mr. Volk replied it is his personal lawn equipment and other items purchased to clear the property after the tornado. Mr. Volk stated he also has a lot of woodworking equipment and would like to have a workshop.

Member Marshall commented that the arial photo looks like there was a structure there in the past.

Mr. Volk replied that is actually a garden.

Member Kirchofer asked Mr. Volk if he knows the size of the neighbor's buildings for comparison.

Mr. Volk replied one of the buildings is 40' x 60'. He estimated the other building to be 30' x 50'. Mr. Volk stated he would like to build a 50' x 75' building, If it becomes cost prohibitive he will downsize.

Member Kirchofer inquired whether it will be a steel building?

Mr. Volk replied it will be a steel building.

Chairperson Dafler stated the application shows a proposed 50' x 80' building.

Mr. Volk replied he misspoke, the proposed building is 50' x 80', not 50' x 75'.

Cheri Simon, of 12589 Airhill Road, stated she came to speak in favor of Mr. Volk's proposed storage building. They recently purchased the property north of Mr. Volk at 12359 Wolf Creek Street. Mrs. Simon stated she grew up on this property and is a cousin of Mr. Volk. She and her husband are in the process of cleaning up the property after years of neglect. They are in favor of Mr. Volk's proposed storage building so that everything on his property, which adjoins hers, can be cleaned up and stored out of site.

Member Kirchofer asked what is the square footage of the house on the property?

Mr. Volk estimated it to be 2,400 square feet.

Law Director Stephan stated if there are no more questions for the witnesses the Public Hearing can be closed.

Chairperson Dafler closed the Public Hearing.

Law Director Stephan stated the first standard to meet is Section 1111.05 (1) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out. Law Director Stephan stated we are looking at the specific conditions of this lot and whether it is a particular hardship on the owner to grant this variance based on conditions of the area. Law Director Stephan noted this is a 2.006-acre lot, with township property to the south of similar sizes and the property bordering to the north is Mrs. Simon's property. Law Director Stephan stated the Board of Zoning Appeals Members need to look at the size of the lot and the conditions in the area under that statement.

Member Marshall stated with the proposed building at its maximum width, there is 35' in each direction given the frontage, so there would be a good bit of area around it.

Member Kirchofer stated the proposed building fits well on the site.

Chairperson Dafler agreed in looking at it, there is no reason for concern other than it does not meet the variance that has been set.

Member Kirchofer commented that the proposed building site is well back on the lot, not near the road frontage.

Chairperson Dafler inquired if it would be behind the house?

Mr. Volk indicated that is correct.

Law Director Stephan read Section 1111.05 (2) The conditions upon which an application for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification. Law Director Stephan stated that goes back to the size of the lot and the Members view of that standard for the area.

Member Kirchofer stated this is not any different than what similar houses in the area have.

Member Marshall agreed and commented we have the approval of the neighbors to the north and the south.

Law Director Stephan read Section 1111.05 (3) The purpose of the variance is not based exclusively upon a desire to increase financial gain.

Chairperson Dafler commented based on the information they were given this is not for financial gain. The purpose is to clean up the property and provide storage.

Law Director Stephan read Section 1111.05 (4) The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.

Chairperson Dafler stated she does not see a problem with that.

Member Kirchofer and Member Marshall agreed.

Law Director Stephan read Section 1111.05 (5) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

Member Kirchofer stated he cannot see anyone saying it would lower their property value to have that large building there.

Member Dafler stated the proposed building will cleanup and improve the area.

Law Director Stephan read Section 1111.05 (6) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the damage of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Chairperson Dafler stated the proposed building would not block any light.

Law Director Stephan read Section 1111.05 (7) The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section and the objectives of this Ordinance.

Member Marshall stated this is a big lot. He sees no reason to place any restrictions.

Chairperson Dafler agreed, stating she sees no conditions that need to be placed on this application.

Law Director Stephan suggested a condition requiring all outside storage be ceased.

Motion by Marshall, second by Kirchofer to grant Variance Application #24-01 for Kyle Volk to construct a 50' x 80' metal storage building at 645 S. Wolf Creek Street, on the condition that all outside storage be ceased. All yeas, motion carried.

Motion by Marshall, second by Kirchofer to adjourn. All yeas, motion carried.

Kimberly Duncan, Clerk

Kathleen Dafler, Chairperson

MEMORANDUM:

DATE: AUGUST 15, 2024

TO: CITY OF BROOKVILLE BOARD OF ZONING APPEALS

FROM: RODNEY L. STEPHAN, LAW DIRECTOR

RE: APPLICATION FOR ZONING VARIANCE-AMVETS POST 1789

The Amvets Post 1789 located at 715 Market Street has filed an application for zoning variance. A copy of the application is attached to this Memorandum. Notice of this hearing was published in the Register Herald and sent to adjoining property owners within 200 feet of the property.

The Amvets Post 1789 intends to build a banquet room and kitchen addition on to the back of their building. The drawing submitted with the application indicates that the north corner of the banquet room will be 20.17 feet from the back property line. The property is zoned General Business. Section 1137.03(b) (4) of the General Business District provides that when the rear lot line of the business property abuts residential district lot lines, the minimum side or rear transitional setback distance shall be 25 feet in depth and provided with a landscape screen or wall as defined in Section 1155.01. There are residential properties at the rear of the Amvets property that are part of Hunters Run. A map of the area is also provided to the BZA.

The requested variance is to reduce the required rear yard setback from 25 feet to 20.17 feet to permit the north corner of the building addition to be located as presented. With respect to the required landscape screen or wall, there is an existing tree line at the back of the property. Pictures of the tree line are attached to this Memorandum. The BZA could either determine that the existing tree line provides a landscape screen or require an additional landscape screen to be planted by the applicant.

Section 1111.06 (a) authorizes the BZA to approve a variance to permit a rear yard setback that is less than the required setback. The City Staff is recommending approval of this variance.

Application # VA 24-02

APPLICATION FOR A ZONING VARIANCE OR APPEAL

The undersigned applies for a **ZONING VARIANCE OR APPEAL** to be issued solely on the basis of information contained herein, and, with the knowledge that the falsification of any fact or statement with, or within this application null and void. (NO ORDER OF THE ZONING BOARD OF APPEALS GRANTING A **VARIANCE OR APPEAL** SHALL BE VALID FOR A PERIOD LONGER THAN TWELVE (12) MONTHS FROM THE DATE OF SUCH ORDER, UNLESS THE BUILDING PERMIT OR ZONING APPROVAL IS OBTAINED WITHIN SUCH PERIOD AND THE ERECTION OR ALTERATION OF A BUILDING IS STARTED OR THE USE IS COMMENCED WITHIN SUCH PERIOD.)

1. Applicant: Amvets Post 1789 Jeff Bang Post commander
2. Applicant address: 715 Market St., Brookville, Ohio 45309
3. Phone: (Hm) 937-409-6277 (Bus) _____ Interest in property: Post commander
4. Location or address of property to be affected: 705 Market St., Brookville, Ohio 45309
5. Legal description: 1207 MACY SUB SEC 1
6. Present Zoning classification: GB Existing use: Amvets Post
7. In order to be processed, applicant must provide:
 - (a) Description or nature of **variance or appeal** requested;
 - (b) Narrative statements which demonstrate to the satisfaction of the Board of Zoning Appeals that the **variance** conforms to the following standards;
 - (1) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out;
 - (2) The conditions upon which an application for a **variance or appeal** is based are unique to the property for which the **variance or appeal** is sought, and are not applicable, generally, to other property within the same Zoning classification;
 - (3) The purpose of the **variance or appeal** is not based exclusively upon a desire to increase financial gain;
 - (4) The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property;
 - (5) The granting of the **variance or appeal** will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 - (6) The proposed **variance or appeal** will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase damage of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;
 - (7) The Zoning Board of Appeals may impose such conditions and restrictions upon the premise benefitted by a variance as may be necessary to comply with standards established in this section and the objectives of this Ordinance;

8. Under no circumstances shall the Board of Zoning Appeals grant a *variance or appeal* to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district. In granting any *variance or appeal*, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the *variance or appeal* is granted, shall be deemed a violation of this Ordinance and punishable under Section 1107.99.

9. The Board of Zoning Appeals shall hold a public hearing within forty (40) days after the receipt of an application for a *variance or appeal* from the Zoning Enforcement Officer or a applicant.

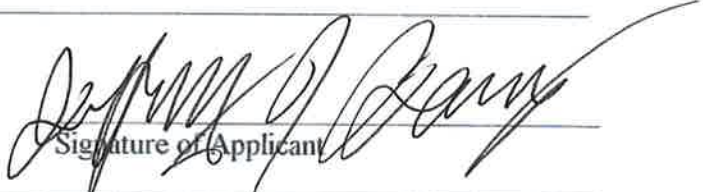
10. Before holding the public hearing required in Section 111 08, notice of such hearing shall be given in one or more newspaper of general circulation of the Municipality at least seven (7) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed *variance or appeal*.

11. Has previous application been filed for the a *variance or appeal*? no

When? _____ Results? _____

Application Date:

7/10/24



Signature of Applicant

OFFICE USE ONLY BELOW LINE

Reviewed by Planning Commission: Yes? _____ No? _____ Date: _____

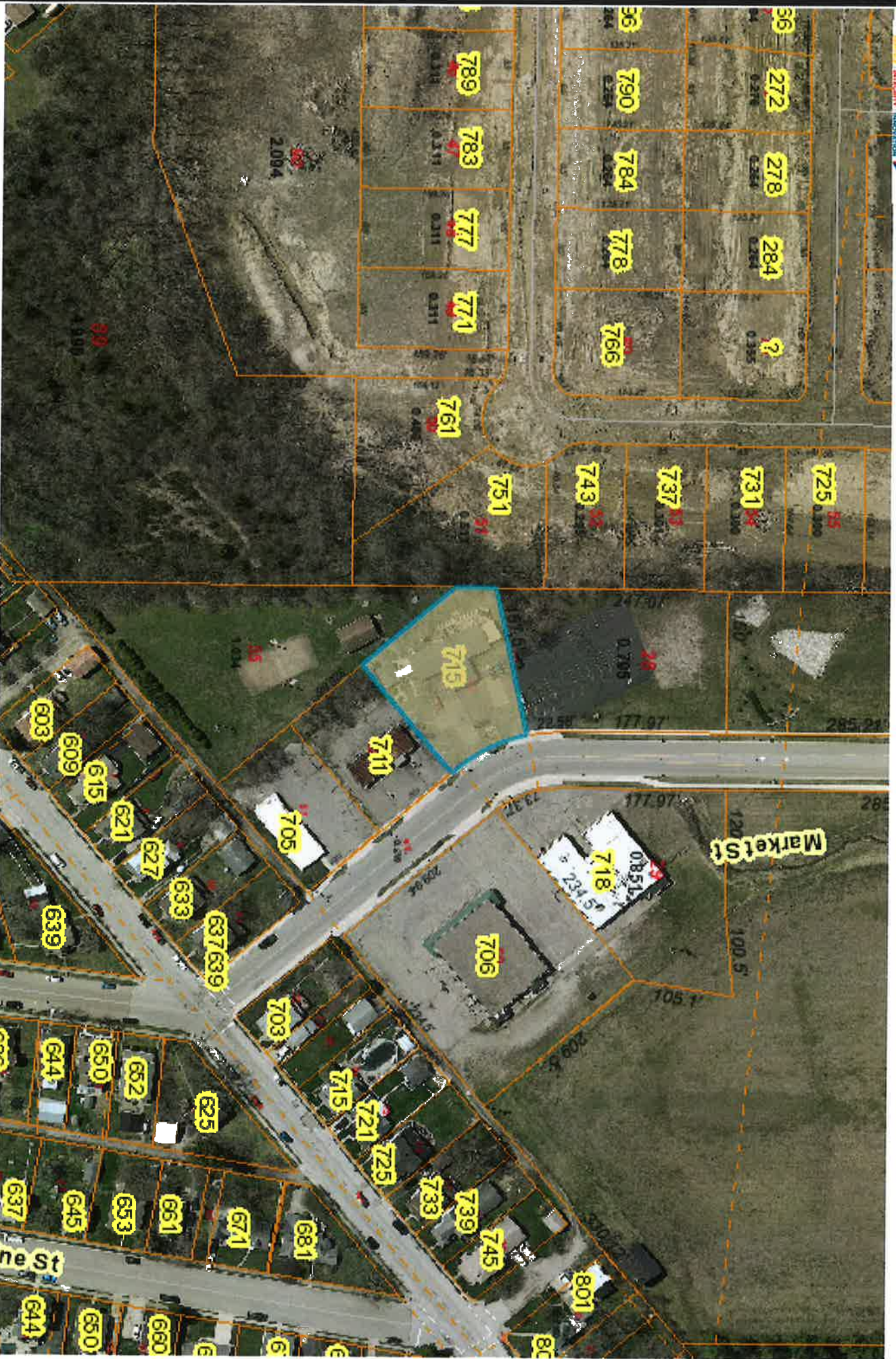
App/Denied Board of Zoning Appeals: _____ Date: _____

Fee: \$150.00 Receipt number: 78080 Date: 7/10/24

(NON REFUNDABLE)

REV01/02





DISCLAIMER:

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1 inch = 184 ft





