

ZONING BOARD OF APPEALS MEETING

February 18, 2021

6:00 PM

The meeting was called to order by Chairperson Kathy Taylor at 6:08 PM. Roll call by Clerk, Cindy Schiminske, found the following Board Members present:

Kathy Taylor, Chairperson

Ernie Rivera

Maureen Riester

Craig Coleman

Bob Faynor

Donna Gilfus, Alternate

Also in attendance: Bill Gabak, Jr., Zoning Officer  
Robert & Diane Kiernan

Chairperson Taylor made a motion to approve the minutes of December 17, 2020 as presented by ZBA Clerk, Cindy Schiminske. Approved AYES 5-0.

The purpose of this meeting was to hear the following request:

Robert & Diane Kiernan, 5649 Silver Street Road, Tax Map #129.00-1-19.92, are requesting a variance to the requirements of the Town of Fleming Zoning Code 7-16A(2)a for a proposed 22' x 24' accessory structure to be located in the front yard of the property.

Applicant Diane Kiernan stated that they would like to build a garage. There is an existing L-shaped driveway and they would like to put the garage at the end of the driveway. However, it exists in front of the footprint of the house.

They are asking for this variance for several reasons. There is a swale that runs between the properties and the property to the right is built up so the swale is rather flat and narrow where they would like to place the garage. If the garage is moved farther back to be in line with the footprint of the house, the swale gets deeper and wider and is like a river every time it rains. They would have to move the garage closer to the house, remove two mature trees, remove the existing driveway and would need to bring in a lot more fill. It would also impact access to the backyard where the septic is located. She stated that they have looked at plans to see if they could possibly attach the garage to satisfy the requirements, but they can't figure out how to do it, as they have an A-frame house and a limited budget.

There was discussion about whether they could move the garage even with the house or a few feet in front of it to avoid that swale. The applicants stated that they have seen a number of garages in front of houses in the Town. The Board explained that those structures could have been placed there before the zoning laws were revised prohibiting accessory structures from being located in the front yard. There was further discussion concerning this issue. Craig Coleman stated, as an example, that a house down the road from the applicants has a detached garage which is about 4 feet ahead of the front of their house. If the applicants could push the garage back that far so it might be just a little bit ahead of the front of the house, so the bulk of it is not in the front yard, that might be acceptable to the Town.

He also explained that some of the reasons for the law (where you can't have a secondary structure in the front yard) is so that it doesn't block the views, it doesn't alter the look of the neighborhood, the neighbors won't be upset where it can be blocking their view up and down the road and so on. And because of the fact that it is in the zoning law that you can't have a secondary structure in the front yard, the Board has already had cases where people have come in and wanted to do the same thing or something similar and they were declined and told they couldn't do it. At this point in time, it wouldn't be fair for those people that were declined if we were to allow someone else to do it. For those people to see that it's been done elsewhere and the Board had approved it, they could come back to the town and say you told me I couldn't do it, but you let the Kiernans do it.

The applicants asked if they were to move it back so that it wasn't much more than 4-5 feet in front of the footprint of the house, would that be acceptable to the Board. There was further discussion about this option. The applicants would have to submit the new plans to the Board prior to the next meeting and be sure they meet the setbacks for the front and side yards. The applicants were agreeable.

Chairperson Taylor made a motion to table the application until the March 18<sup>th</sup> meeting, seconded by Bob Faynor. All in favor.

Chairperson Taylor made a motion to adjourn the meeting, seconded by Bob Faynor. Time was 6:32 PM.

Respectfully submitted,

Cindy Schiminske  
Clerk, Zoning Board of Appeals