

ZONING BOARD OF APPEALS MEETING
October 21, 2021
6:00 PM

The meeting was called to order by Chairperson Kathy Taylor at 6:00pm. Roll call by Clerk, Cindy Schiminske, found the following Board Members present:

Kathy Taylor, Chairperson
Bob Faynor
Donna Gilfus
Ernie Rivera
Craig Coleman

John Yurco, Alternate

Also in attendance: Bill Gabak, Jr., Zoning Officer
Zoning Attorney Andy Leja
Mike & Shelley Sawran
John & Anne Dorio

Bob Faynor made a motion to approve the minutes of September 16, 2021, seconded by Ernie Rivera. Approved AYES 5-0.

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

1. Michael & Shelley Sawran have resubmitted their application for minor subdivision, lot line adjustment and survey map, with the revisions that the Board required at the September 16, 2021 ZBA Meeting. The minor subdivision would be as follows: 0.126 of an acre from parcel #144.00-1-15.411 (shown as Lot 1 on Survey Map prepared by Anderson Survey on September 22, 2021) and 0.239 of an acre from parcel #144.00-1-15.121 (shown as Lot 2 on the Survey Map) being merged with parcel #144.00-1-15.413 (shown as Lot F on the Survey Map). All required documentation was submitted and the Board had no further questions.

Chairperson Taylor made a motion to approve this subdivision, seconded by Bob Faynor.

Roll call vote was taken by the Board.

Bob Faynor	YES
Ernie Rivera	YES
Craig Coleman	YES
Donna Gilfus	YES
Chairperson Taylor	YES

MOTION APPROVED

2. John Dorio, 6012 West Lake Road, Tax Map #130.06-2-61 is requesting the following in order to store a travel trailer in the front yard: variances to the requirements of the Fleming Zoning Code Sections 7-16A(2)a, 7-16A(2)c, 7-24C, 7-24D and Bulk and Use Table, Lakeshore District.

Applicant stated that the existing garage, which is the only building on his lot, is 300ft from the waterfront, so technically he needs to store his trailer between the garage and the road. He is asking to store it in his front yard (which in the Lakeshore Zoning District is defined as the area between a structure and the Lakeshore) where it is level and away from the road. Applicant stated that he has noticed several properties on which he saw boats stored on 40ft wide lots and boats stored in front yards.

Chairperson Taylor said to her knowledge the Board has refused all requests for variances to store trailers in the front yard in the Lakeshore District. There was discussion about the 20 ft side setbacks. Zoning Officer Gabak stated that if applicant wanted to store the trailer behind the garage (in the rear yard, close to West Lake Road), he would still need to get a variance to do so as it would be closer than 20 ft to each side property line.

The Board asked applicant if the trailer was ever moved off the property since the last meeting. Applicant indicated it was not. He tried to sell it but was unable to do so. The Board stated that one of the provisions the ZBA made at the previous meeting – when the applicant had requested a ZBA interpretation of the Code – was that the trailer had to be moved off the property. Applicant said that was his initial goal. Due to the standing water on the property at that time, the Board extended the time for him to move the trailer off the property, but the trailer remained there past the extension date. Applicant indicated he was waiting for the results of this variance application before moving the trailer. The Board informed him that while he was told that he could apply for a variance to allow storage of the trailer on his property, he was still obligated to remove the trailer by the deadline, and the filing of a variance application had no impact upon that deadline.

The Board stated that applicant is asking for a variance to put a trailer on a piece of property that is 42 ft wide. The Lakeshore Zoning District requires a 20 ft setback from side property lines, which leaves only a 2 ft wide strip down the center of the applicant's property where storage can occur without an area variance. The applicant's trailer is 32 feet long, and he lacks room to store it between his existing garage and West Lake Road – his rear yard – in an east-west orientation, meaning he must store it in a north-south orientation. This means he would need a 15 ft variance from both side lot lines. Applicant asked what can be done with a 40 ft lot in the Town? All he wants to do is have a trailer on it and store his trailer there. The Board informed him that a smaller trailer would still create a need for an area variance due to the 20 ft setbacks on either side.

The Board explained that after the original primary structure on the property burned down, Town Codes officials determined that the accessory garage became the primary structure by

default; moreover, the garage has sewer, water and electric service. The garage is too small and too low to store the applicant's trailer, however. Applicant feels that since his garage is so far from the lake, there should be some consideration by the Board that the variance can be explained or justified.

The Board again stated their concern regarding the applicant's disregard of the Board's requirement at the previous meeting that the trailer be removed. The Board reiterated that if there is no variance in place allowing the trailer to remain on the property, it must be removed immediately. Applicant responded that he understood.

Chairperson Taylor reviewed the five criteria for granting the area variance with the Board Members. Based upon the information in the record, and the Board members' understanding of the facts, the members found that: (a) there would be an undesirable change in the character of the neighborhood and a detriment to nearby properties if the Board allowed trailer storage in applicant's front yard (no precedent for such storage) or rear yard (very large side yard variances needed from both the north and south property lines); (b) the benefit sought by the applicant could be achieved by a feasible alternative, *i.e.*, keeping and using the trailer on his property for 45 days per year as allowed by the Zoning Law, then storing it elsewhere offsite; (c) the requested variance was very substantial; (d) the variance would have an adverse impact on the physical or environmental conditions in the neighborhood, especially because of its prominent visual impact; and (e) the applicant's difficulty was entirely self-created.

Bob Faynor made a motion to vote on the variance request, seconded by Craig Coleman.

Roll call vote was taken by the Board.

Craig Coleman	NO
Ernie Rivera	NO
Bob Faynor	NO
Donna Gilfus	NO
Chairperson Taylor	NO

MOTION DENIED

There being no further business, Kathy made a motion to adjourn the meeting, seconded by Ernie Rivera. Time was 6:23 PM.

Respectfully submitted,

Cindy Schiminske
Clerk, Zoning Board of Appeals