

MARIEMONT PLANNING COMMISSION
REGULAR MEETING HELD APRIL 19, 2022

Mr. Van Stone called the meeting to order at 5:32 p.m. Present were Mayor Brown, Ms. Reed, Mr. Rich and Ms. Geldbaugh. Mr. Rod Holloway was in attendance as the Village Building Zoning Officer.

The first variance request was to allow Ken & Melissa Fields of 6725 Fieldhouse Way to add an accessory structure in their side yard.

Findings from the Building Department as Follows:

Item 1:

§ 151.060 RESIDENCE A DISTRICT REGULATIONS

(b) Accessory buildings, erected as part of the principal building or as separate from this division (A)(7)(b): when erected as a separate structure, the accessory building shall be located in the rear yard. Accessory buildings shall be located on the same lot as the principal building, shall not involve the conducting of any business, and there shall be not more than one separate accessory building on any lot.

1. Accessory buildings are permitted for one or a combination of one or more of the following uses:

- a. A private garage or carport;
- b. A building for the storage of tools, equipment, or supplies used for the maintenance of the buildings and land of the lot on which the accessory building is located;
- c. A building for the storage of tools, equipment, or supplies used primarily for recreational use by persons residing on the premises on which the building is located; and
- d. A building for the storage of tools, equipment, and supplies used for the growing of vegetation, vegetables, fruits, shrubs, and trees on the lot on which the building is located.

2. An accessory building erected as a separate building shall not exceed 15 feet in total height measured from the grade at front of the structure to the highest point of roof and shall be at least three feet from all lot lines of the abutting lots. **FRONT OF BUILDING** shall mean that side facing the front property line. Such accessory buildings shall adhere to the following size requirements when located in a **REQUIRED REAR YARD**, defined as an area across the rear of the property 30 feet in depth multiplied by the average width of this area:

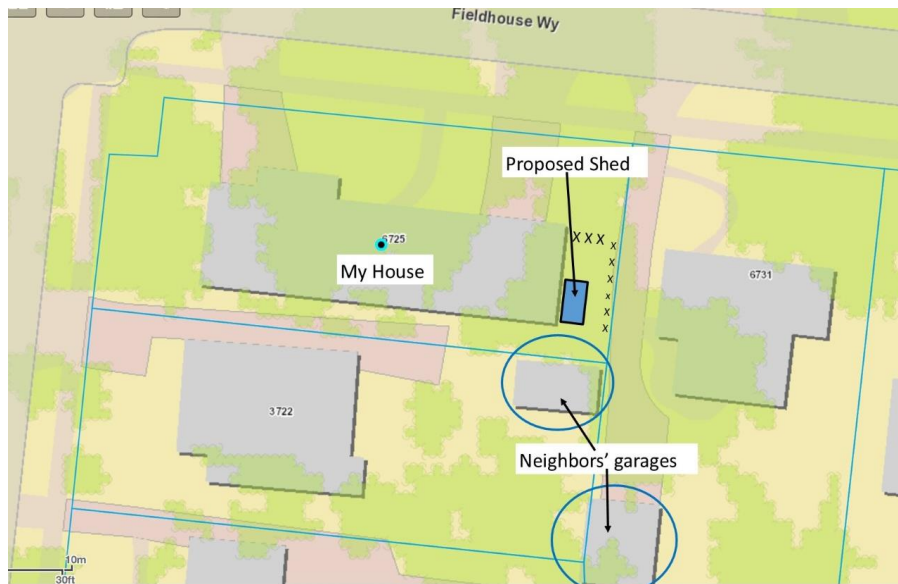
- a. All accessory buildings erected as a separate building in a required rear yard, except those used for the storage of motor vehicles used by the occupants of the property, shall not exceed in area more than 25% of said required rear yard; and
- b. An accessory building erected as a separate building in a required rear yard used for the housing of motor vehicles used by occupants of the property shall not exceed in area more than 30% of said required rear yard.

§ 151.005 DEFINITIONS

ACCESSORY USE or **STRUCTURE**. A use or structure subordinate to the principal use of a building or to the principal use of the land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use. Accessory buildings shall not be used as a residential dwelling. **ACCESSORY USES** shall be located on the same lot as the principal use unless otherwise specified. An accessory building shall be considered part of the principal building and subject to all restrictions applying to the principal building when it has a common wall with the principal building or is attached to the principal building by a permanent structure or when any part is located four feet or less from the nearest part of the principal building. An accessory building shall be considered and regulated as a separate structure when it

is more than four feet from the principal building (see § [151.060\(A\)\(7\)\(b\)](#) 2. and § [151.085\(B\)\(1\)\(c\)](#)).

The resident is requesting a variance to construct an accessory structure in their required side yard. The shed is 6.5' tall x 10' wide x 7' deep and would sit behind a 6' privacy fence. The side yard setbacks for a 125ft frontage are 14.7ft minimum and 33.6ft combined, which is approximates the location of the house. As the shed is proposed to abut the garage wall, it will also be less than 4ft but being requested to be treated as a separate structure. The proposed shed would be about 7.7ft from their property line on the eastern edge. No accessory structure is possible to construct in their rear yard and meet the setback requirements for Residence (9ft to property line).



Mr. Fields said he is a 50-year resident and is looking to install a privacy fence so the shed will be barely noticeable from the sidewalk or street. His neighbors do not have objections. His backyard is not an option. He noted that the shed is a bit smaller at 10 x 7. He has not pursued details until it is approved. It will be moveable and not an attached building but will be placed on a slab. He wants it to be nice, though it will not be seen.

Mr. Van Stone said he walked the site and from the back of the applicant's house to the neighbor's garage is 4'. In no way does this property meet the required rear setback.

Mayor Brown confirmed that no calculation to determine the square footage of the shed was need when occupying the side yard.

Mr. Rich moved, seconded by Mr. Brown to grant the variance based on Code Section 151.024(3)(b)(2)(c)(d)(e)(f). On roll call; five ayes, no nays.

The Second variance to allow Christian Amann of 6515 Wooster Pike an opportunity to maintain an already constructed above ground pool on his property.

Item 2:

§ 151.087 PERMITTED OBSTRUCTIONS IN REQUIRED YARDS

(I)(4) Any paved patio, terrace, deck used as a sports area, or swimming pool shall be located no closer than 30 feet from any property line and shall not occupy more than the equivalent of 25% of the required rear yard, with the following exception: if such uses are clearly a subordinate use, such as a basketball pole on a driveway, they shall be subject to the minimum side yard setbacks for that property as specified in this chapter for the primary structure.

(L) Swimming pools shall adhere to the requirements set forth in division (I)(4) above and § [151.060](#) (A)(3)(b)

§ 151.060 RESIDENCE A DISTRICT REGULATIONS

(3) Permitted recreational uses: (b) Privately-owned tennis courts, swimming pools, and paved sports areas are permitted subject to the following limitations: in any residential district, tennis courts, swimming pools, and paved sports areas shall be located no closer than 30 feet from any property line and shall not occupy more than the equivalent of 25% of the required rear yard, with the following exception: if such uses are clearly a subordinate use, such as a basketball pole on a driveway, they shall be subject to the minimum side yard setbacks for that property as specified in this chapter for the primary structure

§ 151.103 FENCE OR WALL IN SIDE OR REAR YARD

(D) Fences at least four feet in height with secure, self-latching gates shall enclose all swimming pools (additional requirements exist for fencing around pools outside village ordinance).

The pool was reported by a resident in January 2022. Upon investigation it appears that the pool was present in the CAGIS 2020 aerial but not in the 2019 view. There is no record of a permit for this structure nor any changes to the existing fencing in the building department. A notice of violation was sent via regular USPS in February 2022 without a response. A 2nd notice of violation was sent in March 2022 via USPS certified mail and the applicant responded and requested to seek a variance to the ordinances above. The above ground pool is approximately 17ft from the western property line so a 13ft variance is requested. The above ground pool is estimated to occupy about 9% of the required rear yard.



Mr. Amann apologized for not seeking a variance as he was not aware one was needed. He presented signatures from his neighbors to the west and east who did not object to the pool. Moving the pool more towards the east would also cause it to be in violation.

Ms. Reed verified that a variance was needed to install the pool. Had they become before Planning Commission before it was put it installed, she does not believe it would have been approved.

Ms. Mary Porter, 3757 Harvard Acres, said they live behind the applicant's property. The photo is what they look at all year round in addition to the noise level, particularly in the summer. They have contacted the police numerous times to have the noise level reduced. She would have preferred that they leave the trees up so they would not have to see it.

Ms. Geldbaugh said the fence does not appear to be in good condition, especially the chain link. Mr. Holloway said he did not inspect the property for fencing, but there are stringent requirements for fencing surrounding pools with self-latching gates etc. She is concerned that proper permits were not obtained prior to doing the work.

Mr. Ryan Klekar, 3761 Harvard Acres, said he does not have a comment regarding this application.

Mr. Van Stone verified that a permit was not obtained to remove the trees. He did note that a delivery truck demolished the gate which was installed by the vendor. It is a chain link fence which would not have been permitted under current Village ordinances. He does have concerns from a Planning Commission standpoint because one of the things they are to do is maintain the appearance and beauty of Mariemont. Around the pool is dirty with fecal matter. That combined with not obtaining proper permits, he has grave concerns about granting a variance.

Mr. Rich asked how permanent is the pool? Does it come down in the winter months? Mrs. Amann said they have in the past and it can be taken down, but due to a death in the family they did not disassemble this this past winter and that is the reason the yard looks like it does. She said

they have a backyard that they enjoy hosting kids birthday parties etc. She indicated that neighbors do not approach them directly to voice concerns.

Ms. Geldbaugh moved, seconded by Ms. Reed to deny the variance request. On roll call; five ayes, no nays. Mr. Van Stone suggested the applicant have a discussion with Mr. Holloway so it does not get to the point where he would have to file violations with Mayor's Court.

Mr. Rich had amendments to make for the and January 19, 2022 February 23, 2022 minutes. He was out of town and unable to do so at the last meeting. He was under the impression that the Fieldhouse application was withdrawn or no longer active because they changed their plans which no longer required a variance.

After discussion between Mr. Holloway and Gerry Stoker, XPEX it was determined that if the room was going to be used for a playroom it would need to be insulated etc. The applicant was informed and then changed their application. The Planning Commission had to "undo" what it did at the January meeting. They withdrew the recommendation for condition use permit.

After further discussion Ms. Geldbaugh moved, seconded by Mayor Brown to amend the February 23, 2022 minutes to read " the accessory structure is only currently approved to be a storage area and to change the word "deny to "withdrawal" and to strike the sentence "The original recommendation by the Planning Commission was in contradiction to restrict HVAC per the Ohio Building Code and the roll call. On roll call; Three ayes, no nays Mr. Rich and Ms. Reed abstained due to absence). Mayor Brown moved, seconded by Ms. Geldbaugh to adopt the amended minutes. On roll call; Three ayes, no nays (Mr. Rich and Ms. Reed abstained due to absence).

Mr. Rich asked that the minutes be changed for the January 19, 2022 meeting to read " the other half is dedicated to something that is a permissible use in 'Residence A' District".

The meeting adjourned at 6:50 p.m.

Respectfully Submitted,

Ms. Shelly Reed, Secretary