

**TOWN OF ELKTON
BOARD OF ZONING APPEALS
AUGUST 17, 2023
MINUTES**

Present: Shirley Hicks; Sam Goldwater; Derek Chastain; Chip Bromwell, Zoning Administrator;
Lisa Blackson, Esq., Legal Counsel

Absent: Kelly Bedder; Dawn Schwartz

Ms. Hicks called the meeting to order. She asked if there were any corrections or additions to the minutes. There being no corrections or additions, Ms. Hicks called for a motion to approve the minutes from the July 20, 2023 meeting.

ACTION: Motion was made by Mr. Goldwater to approve the minutes from the July 20, 2023 meeting as written. The motion was seconded by Mr. Chastain with the remaining Board members voting as follows: Ms. Hicks – Aye. The motion passed unanimously.

CASE # 1626 – REQUEST OF MERT TUZ TO PLACE A SIX (6) FOOT PRIVACY FENCE IN THE FRONT YARD. THIS ACTION CONCERNS PROPERTY LOCATED AT 4 HOLLINGSWORTH MANOR, ELKTON, MARYLAND, TAX MAP 033A, PARCEL 169 AND ZONED R-3 (URBAN RESIDENTIAL)

Mr. Mert Tuz was in attendance to address this request. Ms. Blackson, attorney for the Board of Zoning Appeals sworn in Mr. Tuz for his testimony. Mr. Tuz stated he made application for placement of a fence for his tenants. He stated they have issues with people entering the lot and throwing trash in the yard as they walk by and he is requesting to place a six (6) foot privacy fence on the property. When he applied for the fence permit he was told by the Town Building Department that they would have to apply for a variance for the six foot fence in order to place it in the front yard of the property.

Ms. Hicks asked Mr. Tuz if the fence currently located on the property is the fence for which they are requesting the variance. He stated that it is and mentioned that they will not be placing any additional fencing other than what is currently existing.

Ms. Hicks asked if he was aware of any concerns from neighbors regarding the placement of the fence. Mr. Tuz stated he has not received any complaints about the fencing to date.

Ms. Hicks asked if any Board members had any questions. Mr. Goldwater asked whether the red line depicted on the submitted site plan showed where the fence is located or was it showing the property line. Mr. Bromwell stated the red line shows the location of the fence. Mr. Goldwater asked if the existing fence has a permit. Mr. Bromwell stated the fence was placed without a permit and prior to a permit being issued they needed to apply for the variance. Mr. Goldwater asked how far the fence was from the property line. Mr. Bromwell stated that as long as they are at least one (1) foot back from the property line they are within the allowed setback requirements. Mr. Bromwell explained that anytime a privacy fence is placed in a front yard a variance would be required. He stated there is no issue regarding the setback for the fence where it is currently located. The reason for the variance is the fact that the privacy fence is located within the front yard.

Ms. Hicks asked if anyone in the audience had any comments regarding the variance for the fence. Mr. Mark D’Azevedo came forward to speak regarding this case. Ms. Blackson swore in Mr. D’Azevedo to

voice his opinion. Mr. D'Azevedo asked if the fence that has been placed would be what would remain or were there any plans to add any additional fencing. Mr. Bromwell explained there would be no additional fencing placed and the reason for the variance is to allow a six (6) foot privacy fence in a front yard. He noted that this particular property is actually a through lot which has two fronts.

Mr. D'Azevedo noted that he has property across the street and therefore he could possibly come in the request a privacy fence in his front yard as well. He stated he feels it would be a mistake to allow a privacy fence in a front yard. He pointed out that if you allow one house to have a privacy fence in their front yard then in fairness you would have to allow anyone to have a privacy fence in their front yard and he believes this would be a big mistake. Mr. D'Azevedo stated that the yard is a mess and he's not sure if the property owner is aware of that but a privacy fence would just shield the problems in the yard. He stated he believes the variance request should be denied.

Mr. Bromwell stated the Ordinance allows a four (4) foot fence that is at least 50% open in a front yard and at least one (1) foot back from the front property line. Mr. D'Azevedo stated he felt a fence that complied with the Town Ordinance would look better than what has been placed.

Ms. Hicks asked if Mr. Tuz wanted to address any of the concerns noted by Mr. D'Azevedo. Mr. Tuz stated he came in to apply for the variance because people were throwing trash into the yard and they felt it would be more of a deterrent to that issue and the concern of people cutting through the property.

Mr. Goldwater asked if a four (4) foot fence would not accomplish the same goal for the tenants. Mr. Tuz said he believes there is already a chain link fence on the property but the tenants felt the taller fence would provide more of a deterrent. He explained that the tenants paid for and completed the work putting up the fence themselves. He said he hoped the Board understood his reasoning for the variance.

Ms. Hicks informed Mr. Tuz he can remain in the meeting for the decision on his case at the end of the meeting or he can call the Town office in the morning for the decision.

MOTION: Motion was made by Mr. Chastain to deny the request for placement of a six (6) foot privacy fence in the front yard. The motion was seconded by Mr. Goldwater with the remaining Board members voting as follows: Ms. Hicks – Aye. The motion to deny the request passed unanimously.

CASE # 1627 – REQUEST OF DWIGHT E. THOMEY REPRESENTING ROGERS LONG RANGE ENTERPRISES, LLC FOR A SIXTEEN (16) FOOT REAR SETBACK VARIANCE FOR AN ADDITION. THIS ACTION CONCERNS PROPERTY LOCATED AT 1101 EAST PULASKI HIGHWAY, ELKTON, MARYLAND, TAX MAP 033C, PARCEL 2239, LOT 1 AND ZONED C-2 (HIGHWAY COMMERCIAL)

Mr. Adam Taylor of Baker, Thomey & Emrey and Mr. Doug Rogers were in attendance to address this request. Mr. Rogers stated he runs his auto collision business at 1101 E. Pulaski Highway and has done so for the past 42 years. He stated he purchased the adjacent property approximately a year ago. The reason for the variance is his business needs more room as well as more space for storage of parts.

Mr. Rogers stated that since COVID there have been changes to the industry, his business has grown and they need additional employees and more places to store vehicle parts. They need to have parts on hand in the shop. He pointed out that the insurance companies are changing the way they are doing business so they have to pre-order parts before vehicles come in to be repaired.

Mr. Chastain confirmed with Mr. Rogers that he has had to hire two additional staff. Mr. Taylor asked Mr. Rogers what is on the property where they are proposing to enlarge the building. He stated there is a driveway at the back which will remain when the additional is placed. Mr. Taylor asked what was on the adjacent property. Mr. Rogers stated there is a school behind them and they have contacted the school in writing and were informed the school had no objections to them placing the addition. Mr. Taylor stated he had forwarded an email to the Director of Facilities, Mr. Buckley who stated the school has no objections to the setback variance. Mr. Goldwater asked if they could provide the Town with a copy of the email. Mr. Bromwell confirmed that he has spoken with two people at the school and they expressed that they had no issues with the variance application. Mr. Taylor clarified that the school would not put their approval in writing other than to confirm they were ok within an email and by telephone.

Mr. Goldwater asked if there was a fence located at the rear of their property. Mr. Rogers stated there is a chain link fence.

Mr. Taylor asked Mr. Rogers if there was any other way they could add the addition to the property without a variance. Mr. Rogers confirmed there is not. Mr. Taylor explained they had come before the Board of Zoning Appeals previously for a setback variance, at that time the issue was that where the building addition was going to be would actually severely reduce the parking necessary to run the business. The previous variance allowed them to put parking spaces in the front where they would not interfere with the back roadway.

Mr. Goldwater asked the width of the back roadway. Mr. Taylor stated the road is approximately 29'7" wide. Mr. Goldwater asked the distance between the fence and the building. Mr. Taylor stated the fence is on the property line. Mr. Bromwell interjected that the fence has been moved since the survey was completed. Mr. Taylor stated the addition will be 24' 7" from the fence. He added that it will only be adding an additional five (5) feet to the existing building in that direction. They are therefore asking for a sixteen (16) foot rear setback from the required forty (40) foot rear setback.

Ms. Hicks asked for clarification regarding the items submitted for the case. She asked if they were adding to the masonry building as opposed to the metal building. Mr. Rogers confirmed they will be adding to the masonry building. Ms. Hicks asked if Board members had any other questions. There were no additional questions from any Board members.

Ms. Hicks informed Mr. Taylor and Mr. Rogers that they were welcome to stay for the remainder of the meeting to hear the decision on this case or they could call the Town office in the morning for the decision.

Ms. Hicks opened the floor for audience comments.

Mr. D'Azevedo spoke in favor of the request for the addition for Rogers Long Range Enterprises. He stated that Mr. Rogers has invested his time over the past 42 years in this business and knows what the business requires. The change they are requesting will employ additional people and keep the business in Town, and will have no negative effect. He also pointed out that the addition won't be visible from the highway.

MOTION: Motion was made by Mr. Chastain to approve the request of Rogers Long Range Enterprises, LLC for a sixteen (16) foot rear setback variance for construction of an addition. The motion was seconded by Mr. Goldwater with the remaining Board members voting as follows: Ms. Hicks – Aye. The motion passed unanimously.

OLD BUSINESS: There were no items of Old Business to discuss.

NEW BUSINESS: Mr. Bromwell stated there have not been any cases submitted to date for the September meeting.

NEXT MEETING: Ms. Hicks stated, should any cases be submitted, the next meeting of the Board of Zoning Appeals will be Thursday, September 21, 2023.

There being no further business to discuss Ms. Hicks called for a motion to adjourn the meeting.

MOTION: Motion was made by Mr. Goldwater to adjourn the meeting. The motion was seconded by Mr. Chastain with the remaining board members voting as follows: Ms. Hicks – Aye. The motion passed unanimously and the meeting was adjourned at 6:40 p.m.

Respectfully submitted,

Brie Humphreys