

**SUGARCREEK TOWNSHIP
BOARD OF ZONING APPEALS
THURSDAY, DECEMBER 17, 2020**

This regular meeting of the Sugarcreek Township Board of Zoning Appeals was held on Thursday, December 17, 2020 via Zoom at 7:00 p.m.

Mr. Froehlich called the meeting to order.

Everyone present stood for the Pledge of Allegiance.

Upon call of the roll, the vote resulted in the following:

Mr. Haibach – present
Mrs. Staten – absent
Mr. Froehlich – present
Mrs. Vantrease – present
Mr. Demko – present
Mrs. Moore – absent

Mr. Froehlich swore in all those present wishing to provide testimony

Mrs. Tilford, being duly sworn, provided the Staff Report for BZA08-2020. Applicant, Fullmer's Landscaping, Inc., Kent Fullmer, is requesting a Variance to reduce the required rear yard setback to allow for the construction of a covered deck at a rear yard setback of approximately 24'-2" (35.32' required). The subject property is 3847 Murphy's Crossing, parcel L32000100120005500, is owned by Jose and Amber Rodriguez, contains 0.750 acres and is located in the R-1A (Suburban Residential-Low) District.

Mr. Robert Kent Fullmer, 9547 W. Third St. Dayton, Ohio, being duly sworn, came forward. Mr. Fullmer noted the dilemma of the width of the lot being greater than the depth of the lot. He noted the client contacted them with the desire to do a pool project. He noted the importance of matching the house's architecture. He explained, at first the pergola was proposed at the other end of the pool, but when it is detached there is a height restriction and they could not get their roof pitches to match the house. He noted that they opted then to attach it to the house. They ended up with this design because it looks more in keeping with the roof pitches and it is attached, so we don't have that height restriction. Now they will have an upper and lower area, the lower being for the pool. He noted that they plan for a 25' setback and when he spoke to Mrs. Tilford she informed him that it was a 40' setback. He noted had they known that before design, they would not have presented this design to the client and that is an error on their part. Keeping to that 40' setback only yields a 4' deep pergola which does not work aesthetically or functionally. He noted that there is a woodland area between the house and the other property; there is screening that will be maintained and additional screening will be added.

Mr. Froehlich asked for confirmation that the existing trees would be maintained.

Mr. Fullmer confirmed and noted that additional trees will also be added.

Mrs. Vantrease asked if there is fencing.

Mr. Fullmer stated not now, the fence will go in with the pool and he identified the suggested location of the fence.

Mrs. Tilford noted that the township was contacted by the neighbor on Panama Place directly behind this project in support of the variance, but they were unable to attend. She noted that property location on the map.

Mr. Demko asked when the existing deck was constructed.

Mr. Fullmer indicated he is not sure. He noted that they did construct the new deck without approval and that was an oversight on their part. They did that in the month of September.

Mrs. Vantrease noted a concern about screening of the deck and if there is a plan for screening.

Mr. Fullmer indicated yes they will be adding spruces.

Mr. Froehlich asked if anyone else had questions.

Mr. Froehlich asked Mrs. Tilford about the percentage of difference.

Mrs. Tilford stated 31.6%.

Mrs. Vantrease asked about screening requirements.

Mrs. Tilford stated she believes Mr. Fullmer would be in favor of a condition that screening as shown on the landscape plan would be installed.

Mr. Fullmer indicated that would absolutely welcome that condition, noting they are embarrassed to be in this situation.

Mr. Froehlich asked if 35' is the normal setback.

Mrs. Tilford noted that in the R-1A District the required setback is 40', but we have a formula for reduction when a lot is smaller than the required minimum lot size. That was applicable here bringing the setback minimum down to that 35' dimension.

Mr. Fullmer indicated the smaller lot size also contributed to the difficulty.

Mr. Demko asked where a 31.6% deviation stands historically.

Mrs. Tilford stated it would be difficult to say for sure, though certainly we have issued variances of that deviation and greater.

Mr. Froehlich concurred.

Mr. Haibach asked if we have received any additional comments on the case.

Mrs. Tilford indicated that we have not.

Mr. Froehlich asked for any additional comments in relation to the application. There being none, he asked for a motion to close the public portion of the hearing.

Mr. Haibach made a motion to close the public portion of the meeting, which was seconded by Mrs. Vantrease.

Upon call of the roll, the vote resulted in the following:

Mrs. Vantrease-yes
Mr. Demko-yes
Mr. Froehlich-yes
Mrs. Haibach-yes

Mr. Froehlich noted when he first looked at this it seemed reasonable as it does now. Short of getting a variance there is no way to add any outdoor space. He noted he is pleased to note no objections from the neighbors most likely to be impacted. He noted there are lots of trees in that area and this is a smaller lot than what is typical for the neighborhood. It is not excessive and it will fit in with the neighborhood.

Mr. Haibach noted his agreement and concurrence with Mr. Froehlich's assessment.

Mr. Froehlich noted that structure is two-story, so he is not sure what new plantings will do.

Mrs. Vantrease noted it looked as though the pool would result in the removal of trees.

Mr. Froehlich noted the deck is on the second floor; he questioned the need for additional landscaping but he would be in favor of a requirement that no additional trees be removed in conjunction with the pool project.

Mr. Fullmer indicated none would be removed.

Mr. Froehlich made a motion to approve the request with the condition that no additional trees are removed however in the event a tree has to come down then replacement would be required and approved by staff on a tree by tree basis, which was seconded by Mrs. Vantrease. Upon call of the roll, the vote resulted in the following:

Mrs. Vantrease-yes
Mr. Haibach-yes
Mr. Froehlich-yes
Mr. Demko-yes

Minutes were held until the next meeting.

Mr. Haibach made a motion to adjourn, which was seconded by Mrs. Vantrease.

Upon call of the roll, the vote resulted in the following:

Mrs. Vantrease-yes

Mr. Haibach-yes

Mr. Froehlich-yes

Mr. Demko-yes