

The City of Milford Board of Zoning Appeals met in Regular Session in Council Chambers at 745 Center Street on Thursday, February 23, 2023.

Jon Lenihan called the meeting to order at 6:00 PM.

Present: Brooke Shanks, David Monroe, Jon Lenihan, Janet Cooper, Kodi Sargent.

Staff: Christine Celsor, Planning and Community Development Coordinator.

ROLL CALL

All members were present.

MINUTES

Mr. Lenihan motioned to approve the meeting minutes of January 26, 2023, and Mr. Monroe seconded the motion. A 4-0 vote carried the motion. Ms. Cooper abstained.

Mr. Lenihan swore everyone in who wished to speak.

VAR 23-01 Howland Lot Size Variance Request

Ms. Celsor read the staff report into the record:

Project: Howland Variance Request

Location: 13 Laurel Avenue, Milford, OH 45150

Property Owner/Applicant: Tim & Laurie Howland
17 Laurel Avenue
Milford, OH 45150

Tax Parcel Id: 210706.016A

Zoning: R-3, Single Family Residential District

Existing Use: Single Family Dwelling

BACKGROUND

The subject property is a single-family residence located on the west side of Laurel Avenue. The applicants own 13 Laurel Avenue, the subject site, and the adjacent property to the south, 17 Laurel Avenue. The applicants live in the single-family residence at 17 Laurel and they rent the single family residence at 13 Laurel Avenue.

Eight years ago the Howlands constructed a fence and added landscaping and mature trees to the property at 13 Laurel, which allowed them to use the land as an extension of their side yard (see Attachment 1). The tenant at 13 Laurel has been renting the home for over ten years, and now wishes to purchase the property. The Howlands are requesting a variance for lot size so that they can transfer the portion of land that they have been using to their property at 17 Laurel.

The existing property at 13 Laurel Avenue is .1951 acres, or 8,499 square feet. After the transfer of tract "B" as shown on the plat, the new lot size would be .1428 acres, or 6,220 square feet, shown as tract "A" on the plat. Section 1147.06 (A) of Milford's Zoning Ordinance states that the minimum lot size in the R-3 District is 8,000 square feet. The applicant is requesting a variance to reduce the lot size of 13 Laurel from 8,499 square feet to 6,220 square feet. Section 1147.10 of the Zoning Ordinance states that the side setback required in the R-3 District is 6 feet. As shown on the plat, the left side of the house at 13 Laurel would be 6.1 feet from the proposed property line if the proposed land transfer takes place.

ADJACENT LAND USE AND ZONING

All adjacent property is zoned R-3, Single-Family Residential and is used for Single-Family Dwellings.

SUMMARY

1. The property at 13 Laurel Avenue, Milford, Ohio 45150 is located in the R-3, Single Family Residential District in the City of Milford and subject to the City's Zoning Ordinance.
2. Tim & Laurie Howland own the property.
3. The subject building is a one-story bungalow with a finished attic, 938 square feet, built in 1905.
4. The existing lot size is 8,499 square feet.
5. As specified in section 1147. 06 (A) in Milford's Zoning Code, the minimum lot size in the R-3 District is 8,000 square feet.
6. Applicants want to transfer 2,278 square feet of the property at 13 Laurel Avenue to the adjacent property, 17 Laurel Avenue, which is owned by Tim Howland.
7. The proposed new lot size of 13 Laurel Avenue would be 6,220 square feet.

ANALYSIS

The BZA is to consider whether the applicant should be allowed to transfer land from 13 Laurel Avenue to 17 Avenue, resulting in a lot size of 6,220 square feet for 13 Laurel. The applicant has the burden of proof to show that a practical difficulty exists.

All of the factors outlined in section 1131.11 (D) do not need to be satisfied. They shall be weighed together in the analysis. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered practical difficulties in the use of his property include, but are not limited to:

1. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions;

The South Milford neighborhood was platted prior to the adoption of Milford's Zoning Ordinance. Many lots in South Milford in the same R-3 Single Family Residential District are less than 8,000 square feet, particularly along Mound Street.

2. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Not applicable.

3. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

It would be possible to transfer only the fenced portion of property.

4. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

There would be no change in the character of the neighborhood.

5. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and trash pickup;

Not applicable.

6. Whether the property owner purchased the property with knowledge of the zoning restrictions;

The applicants state that the property was purchased to operate as a long-term rental.

7. Whether special conditions or circumstances exist as a result of actions of the owner;

The owner fenced a portion of the land belonging to the adjacent property.

8. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

Unknown.

9. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;

Substantial justice requires that the interests of the community, neighborhood and adjoining property owners be given due consideration. The applicant bears the burden of proof to the satisfaction of the Board of Zoning Appeals to show that his proposal will not be a detriment to the neighborhood.

10. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The granting of the variance would not confer any special privilege that is denied by the applicable lot size provision in the R-3 zoning district.

RECOMMENDATION

Staff recommends approval of the lot size variance.

DISCUSSION

- Mr. Monroe: I had questions about some of the numbers on here. Attachment 1 shows the current acreage to be .233 acres not the .1951 acres which is I believe the lot above it. So I think the square footage and acreage listed in the report is not accurate
- Ms. Celsor: The square footage listed on the Auditor's website is just a guideline. It's not always 100% accurate.
- Mr. Monroe: There's a comment in the staff report that new setback would be 6.1 feet from the proposed property line for the house. The survey shows 6.2 feet.
- Mr. Lenihan: 6.2 feet at the front; 6.1 feet at the back. So the minimum would be 6.1 feet.
- Mr. Howland: Tim Howland, 17 and 13 Laurel. We set out in 2016 to put up a fence and increase 17's back yard. We spoke with the City Manager and he said you own both properties, you can put the fence wherever you want. We put the fence just shy of the 6 foot minimum. It's well within the current setback. As Christine noted the new square footage for 13 Laurel would be 6,222 I think, which is even larger than one of the very nearest adjoining properties.
- Mr. Lenihan: Is that the accurate number?
- Mr. Howland: I think that's the number off of the survey. We moved the fence I think about eight years ago and nobody said anything. It made the overall back yard for better for both 13 and 17. Moving the fence did improve it. I don't see it being a complicated issue.
- Mr. Monroe: You are saying the fence is definitely on the lot of 17, not 13?
- Mr Howland: Correct.
- Mr. Lenihan: I think this is an example of new zoning guidelines being overlayed on old neighborhoods.

Seeing no members of the public, Mr. Lenihan made a motion to close the public comment hearing portion, seconded by Mr. Monroe. All members voted yes.

Ms. Shanks: My concern and questions were just the fence meeting the requirements for being as close to the building next door. Otherwise I am in favor of approving.

Mr. Howland: The setback is 6 feet. Our fence is at 6.1 feet. The fence is on 17's side of the line.

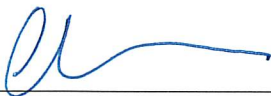
Mr. Monroe: I motion to approve the variance for the reasons listed in the staff report and specifically that the change would not infringe on any setbacks and is in line with other lot sizes of the area.

Ms. Cooper: I second.


The motion carried by a 5-0 vote.

ADJOURNMENT

There being no further business to come before the Board of Zoning Appeals, Mr. Monroe made a motion to adjourn the meeting at 6:24 pm; Ms. Cooper seconded the motion. A 5-0 vote carried the motion.



Christine Celsor, Planning and Comm. Dev.



Jon Lenihan, Chair 12/06/2023

