

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

Janet Cooper called the meeting to order at 6:00 PM.

ROLL CALL

Present: Brooke Shanks, David Monroe, Janet Cooper.

Staff: Christine Celsor, Planning and Community Development Coordinator.

Ms. Shanks made a motion to excuse Mr. Lenihan and Ms. Sargent, seconded by Mr. Monroe. The motion carried 3-0.

MINUTES

Mr. Monroe motioned to approve the meeting minutes of February 23, 2023, and Ms. Shanks seconded the motion. A 3-0 vote carried the motion.

Ms. Cooper swore everyone in who wished to speak.

Ms. Celsor read the staff report into the record:

Project: Boland Accessory Structure Variance
Location: 521 Clark Street, Milford, OH 45150
Property Owner/Applicant: Pamela Boland
521 Clark Street
Milford, OH 45150
Tax Parcel Id: 210715.105
Zoning: R-3, Single Family Residential District
Existing Use: Single Family

The BZA will review an application requesting a variance from Section 1181.08.E of the Milford Zoning Ordinance, which specifies that "A detached accessory building shall be at least five (5) feet from the side and rear lot lines." Pamela Boland, applicant, has already installed a shed within the required 5-foot setback, and she is now requesting permission to keep it there.

ADJACENT LAND USE

All adjacent property is zoned, R-3 Single Family Residential District.

BACKGROUND

1. The property at 521 Clark Street, 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. Pamela Boland bought the property in 1998.
3. In 1988 a concrete slab existed on the property in the back of the lot.
4. The Milford Zoning Ordinance, Section 1197.06. states:
 - A. Where a lawful structure exists at the effective date of adoption or amendment of this Zoning Ordinance that could not be built under the terms of this Zoning Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - 1) No such non-conforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity; and
 - 2) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
5. As specified in section 1181.01 (E) in Milford's Zoning Code, a detached accessory building shall be at least five (5) feet from the side and rear lot lines.
6. On September 9, 2022, Pamela Boland applied for a zoning permit to install a 180 square foot shed. Later the proposed shed was increased to 200 square feet.
7. On September 12, 2022, a zoning permit was issued for the shed with the condition that the shed be located at least five feet from the property line.
8. On December 8, 2022, a neighbor called the Zoning Department stating that the shed at 521 Clark had been installed 40 inches from the property line.
9. On February 9, 2023, Charles Ohmer Jr., on behalf of Charles Ohmer, property owner of the adjacent property at 523 Clark street, contacted Zoning Administrator Christine Celsor and requested a site inspection to view the newly installed shed.
10. On February 10, 2023, Zoning Administrator Christine Celsor met with Charles Ohmer Jr. and Charles Ohmer, owner of 523 Clark Street, and observed that the shed was located 39 inches from the property line.

ANALYSIS

The BZA is to consider whether the applicant should be granted a variance to keep the 200 square foot shed in its current location which is closer to the property line than what was administratively approved.

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 east Milford area consists of small lots and in this case the parcel in question is considered a legal nonconforming lot because it does not meet the minimum lot area requirement for the R-3 zoning district.

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;

The property is being used as a single-family dwelling. Staff feels the shed size and placement is in keeping with other accessory structures in the area.

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;

Charles Ohmer Jr. And Charles Ohmer have stated that they would like the shed moved so that it is five feet from the property line, as required by zoning code. It is staff's opinion that the shed will not be detrimental to adjacent property owners.

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 owner states yes, she did have knowledge of the zoning restrictions, in her application materials.

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

The owner installed the shed on the existing slab which was less than five feet from the property line, despite the condition of approval requiring the shed to be at least five feet from the property line.

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

The owner could move the shed, but there would be a cost involved.

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. Staff feels that the request meets the spirit and intent of the ordinance.

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.

Granting the variance would not confer a special privilege to the applicant that is denied by other property owners in the neighborhood.

RECOMMENDATION

Staff recommends approval of the accessory structure variance.

DISCUSSION

Ms. Boland: I did talk to Mr. Ohmer senior and we worked through, should I get this shed and are you ok with it. We had spoken about it so I was sort of suprised. We had discussions about it throughout. It was an open discussion with my neighbor.

Mr. Ohmer Jr.: I'd like to state that my dad's ninety-four years old and he can't remember a lot of stuff. I'm pretty upset with Pam and the way her son treated my father. Leaving a mess in his yard when they put the fence up and I think it's unfair to have a mess left in his yard and then they put the shed too close to the line. Pam should have worked it out with my dad. Now she's made my dad mad. I'm here to speak for him and I feel Pam should have talked to me before she started the project because I oversee his property, I take care of him, I do everything for him.

Ms. Boland: Charlie is my neighbor. I talk to him all the time. The fence, I cleaned up the mess. There might have been a mess there but we're not talking about the fence. We're talking about the shed. He even asked if my car fit in it. That's great, you should get the bigger one so you can protect your new car. I'm not trying to take advantage of Mr. Ohmer.

Mr. Allen: My name is Ben Allen. I live at 540 Clark Street, Milford, Ohio 45150. I am just here as a neighbor and also to get clarification on building ordinances. So the five foot rule is the five foot rule, but say if I was to have a written and verbal agreement with a neighbor and we were to present the building permit to you, would that, say instead of five feet, three feet, if everyone's on the same page would that be adequate for a variance?

Ms. Celsor: No, that's not how it works. You would need to submit a zoning application if you're talking about an accessory structure like a shed. You would need to submit and application for a zoning permit to the City. It would be reviewed by staff. If it meets the zoning regulations, it can be approved by staff. If it does not meet the regulations, staff cannot approve it. If it's less than what's required in the code it cannot be approved administratively. You can ask for a variance through the Board of Zoning Appeals, which is this board.

Ms. Cooper: We will close the public hearing portion and we will have questions from the board.

- Ms. Shanks: I have a question for Pamela. The new shed, the 200 square foot, that's the same size and footprint as the previous shed?
- Ms. Boland: The previous shed was eight by ten. The current shed is ten by twenty. I think before I moved in there was a garage there. They tore it down.
- Ms. Cooper: In here it states that this shed is built on the existing slab. So even though it's bigger, it's still on the same existing slab. Is that correct?
- Ms. Boland: The slab is actually ten by twenty. The shed I had prior was eight by ten. It's taller too.
- Mr. Monroe: Regarding the slab, for your old shed, if it was smaller than the slab, where on the slab would it have been located?
- Ms. Boland: There's a picture of it. There's the previous slab. To have to move this, it would compromise the integrity of the shed. The cinder blocks on the side, where the old garage was and the cement, so if I had to move it that way, it would be off. I didn't add any foundation. It was built on the cinder blocks where the old garage was.
- Ms. Shanks: So when you built it, were you aware that it was...?
- Ms. Boland: When I built it, there was an old wire fence that had been there since the property was established and it was full of a vine, so I did my best. I thought it was a couple of inches. I was aware it was maybe a couple of inches. I did speak to Mr. Ohmer, I'm like I don't know what to do, so I just did the variance.
- Mr. Monroe: A question for Charles Jr.: with this shed being under the five foot, what inconvenience or difficulty is it putting upon you or your father?
- Mr. Ohmer Jr. As a neighbor, just hurt feelings. I don't know if there's access for Fire Department or distance between buildings in case there's a fire.
- Ms. Boland: There's no difference from the garage that was there or the shed that was there prior to this shed now.
- Mr. Monroe: I motion to approve the variance on the grounds that it does keep the same footprint as the original garage that was there and I see no major burden that it will cause to the neighbor and the findings listed in the staff report.
- Ms. Shanks: I'll second that.

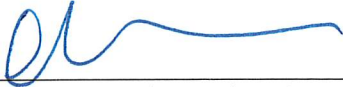
The motion carried by a 3-0 vote.

RESOLUTION 2023-1

Ms. Shanks motioned to adopt Resolution 2023-1, Case No. VAR 23-01: a Resolution Approving a Lot Size Variance for 13 Laurel Avenue to allow the transfer of a portion of land from 13 Laurel Avenue to 17 Laurel Avenue, and Mr. Monroe seconded the motion. A 3-0 vote carried the motion.

ADJOURNMENT

There being no further business to come before the Board of Zoning Appeals, Ms. Cooper made a motion to adjourn the meeting at 6:30 pm; Ms. Shanks seconded the motion. A 3-0 vote carried the motion.



Christine Celsor, Planning and Comm. Dev.



Jon Lenihan, Chair 12/06/2023

CITY OF MILFORD
 BOARD OF ZONING APPEALS
 March 23, 2023 6:00 p.m.

SIGN IN SHEET

NAME	ADDRESS
Pam Boland	521 Clark St. Milford OH
Ben Allen	540 Clark St Milford OH 45150
Autette Dantoff	518 CLARK ST Milford OH 45150
Emily Boland	521 Clark St Milford, OH 45150
Charles Eohmer JR	523 Clark Street milford Ohio 45150
Charles E. Ohmer, Sr.	523 Clark Street milford, Ohio 45150

