

Village of Canton

Zoning Board of Appeals Meeting

October 5, 2021
Zoom Virtual Meeting
7:00pm

Members Present

Chairperson Conrad Stuntz; Caitlin Gollinger; Andy Whittier; Mike Snow; Barb Beekman
Recording Secretary Jeni Reed

Members Absent

None

Others Present

Pete Ames (Best Western); Steve Wilson (Bohler Engineering)

Public Hearing

The public hearing for an area variance at 111 East Main Street began at 7:02pm with a description of the public hearing process by chairperson Conrad Stuntz. At the conclusion of his description he made a request for any general questions - there were none.

It was noted for the record that 111 East Main Street is the newly constructed McDonalds restaurant.

Code Enforcement Officer Tim Nolan presented the details of the application as follows:

The application by Bohler Engineering for an area variance at 111 East Main Street is to put in a shed which was originally installed without prior notification (not part of the site plan).

- It was indicated that the shed is located right on the property line between Mountain Mart (105 East Main Street) and McDonalds (111 East Main Street).
- Mr. Nolan added to the stipulations of the certificate of occupancy requiring the shed to be moved to comply with Village Zoning Code 325-32 Accessory Building section E: "Non-residential accessory building shall comply with the front and side yard requirements for principal buildings to which they are accessory, and shall not be closer to any real property line than ten feet." This shed is located directly on the property line.
- Bohler Engineering then submitted a building permit to have the shed located as already placed, which was denied by Mr. Nolan.

Mr. Wilson presented the request as follows:

The Operator of McDonald's requires a shed for additional storage (lawn and snow equipment as well as promotional materials), as the building itself has no extra space for this type of storage.

The following questions were presented to the applicant by board members:

- Conrad Stuntz: The area variance requests a 23 foot side-yard variance and a 45 foot rear-yard variance for the 12x20 shed; please explain these numbers.
 - Note - the shed is located at the back of the lot, on a concrete pad behind the dumpsters.

- It was noted that the McDonald's building itself is well within the required 25 foot setback.
- In a C-2 Zone (where this is located) the required setbacks are 25 feet side-yard and 50 feet rear-yard.
- The request is to allow the shed to be located with a 5 foot setback on the rear-yard (so a variance of 45 feet) and a 2 foot setback on the side-yard (a variance of 23 feet).
- Conrad Stuntz: The application states there is no additional possible location on the property for the shed.
 - Did they pursue the possibility of turning the shed 90 degrees and leasing a section of the adjacent parking lot?
 - It is believed that the company has not pursued this at this time. It was indicated that at the time of the original lease there was no movement on any additional property being available.
- Conrad Stuntz: The concrete pad does not fully support the shed, and it is overhanging on the left side for approximately 2 feet.

Chairperson Conrad Stuntz then presented the public the opportunity for open discussion of the request:

No comments were offered from the public at this time.

As there were no additional questions or public comment, the public hearing was closed at 7:17pm by chairperson Stuntz.

Call to Order

The meeting of the Village Zoning Board of Appeals was called to order at 7:17pm by chairperson Conrad Stuntz.

Agenda Items

1. Discussion of area variance for 111 East Main Street

An accessory shed to the new McDonald's building located at 111 East Main Street has been added to the parcel. As it does not meet the required code, the applicant is requesting an area variance. The parcel is within the C-2 zone, and the current setbacks of the shed are well outside the requirements. It has been noted that there is no other location for the 240 square foot shed.

5 Points of Discussion required for an Area Variance:

- Would an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties?
 - Does this shed change the feel of the neighborhood at all? It does not appear to.
- Are there any alternative options that would not require a variance?
 - Is there an alternative option for location of the shed? Not on the existing parcel although it is still a question as to whether leasing additional property for the shed would be a feasible alternative.
- Is the requested variance substantial?
 - Would the variance change the lot or the coverage of the lot? Would the variance make any major changes to the parcel? Would the variance change the entire feel of the parcel? This does not appear to be a substantial change as it is only a 240 square foot shed, most of which is sitting on a concrete pad.
- Would the variance have an adverse impact on the physical or environmental conditions of the neighborhood?
 - There is a swale line on the Mountain Mart property, and a pitched asphalt drainage behind the shed which drains into a catch basin to gather water runoff from the pad; are we going to see an environmental impact on the property line due to runoff from the shed onto the ground that is not concrete, and could this impact be mitigated?
 - Mr. Wilson indicated that there would be no additional runoff as there is no increase in impervious surfaces.

- Mr. Stuntz did indicate that as the shed would take some of the water that would have originally gone on to the concrete pad and then down to the catch basin and instead divert it to the ground next to the shed, this may have some impact.
- Is the alleged difficulty self-created?
 - At the time that the building permits and site designs were done, the owner/operator did not request a shed, as the operator had not yet been designated. It is possible that if this had been identified at the start then something could have been done in the planning to make it fit within requirements.
 - Caitlin Hill: Why was the shed an afterthought?
 - Mr. Wilson indicated that once the owner/operator was designated (post design), it was determined that this particular operator would require the shed due to maintenance requirements.
 - Caitlin Hill: What do the abutting properties think of the requests?
 - Mountain Mart did ask about the letter that was sent and Tim Nolan replied but did not hear any questions or concerns.
 - Conrad Stuntz did not receive any inquiries either.
 - All property owners within 100 feet of the property received a letter notifying them about this meeting and the request.
 - It was determined this issue was self created, and asked if it would be appropriate for a smaller shed located there?
 - Both sides of the shed are in violation of the setback requirements.

Summary of the 5 tests:

- Point 1 - no
- Point 2 - no
- Point 3 - no
- Point 4 - no
- Point 5 - yes

Board Discussion:

- Barb Beekman: this shed was not installed properly and shouldn't be rewarded; but at the same time it's not a major concern and not creating a particular problem.
- Conrad Stuntz: is it possible to consider additional property for accommodating the shed within the required setbacks? It was noted that the land is a leased parcel.
- Andy Whittier: beside the issue of asking for forgiveness instead of permission, he does not feel that the shed poses a major issue as it is hidden and does not present a major impact, he would just like to clarify that it doesn't present an environmental impact.
- Barb Beekman: confirmed that the granting of an area variance does not set a precedent for future situations, as each area variance is only considered for "this parcel, this location, this use." Mr. Stuntz also added that the ZBA can request mitigating conditions.
- It was confirmed that the ZBA is not currently aware of what the environmental impact of the lack of full support under the shed will be. A potential resolution would be to add a drainage or gutter to pull the water away.

Voting Results

Mike Snow: Aye

Caitlin Gollinger: Aye

Barb Beekman: Aye

Variance Passes by Majority

Conditions of the Variance

- At a minimum it should be required that half of the shed have guttering to provide drainage.

- The owners will be required to mitigate the runoff from the roof and provide positive drainage.
- The owners will be required to add some stone or hardscape of some kind, or finish the foundation under the shed.

Chairman Stuntz will write up this decision and share it with Code Enforcement Officer Tim Nolan, who will share it with Steve Wilson from Bohler Engineering.

Other Items

- Chairman Stuntz offered a warm welcome to Barb Beekman to the committee.

Adjournment

The meeting was adjourned by chairperson Conrad Stuntz at 7:51pm.

Respectfully Submitted,
January 31, 2022
Recording Secretary Jeni Reed