



Zoning Hearing Board

Wednesday, November 14, 2018 4:00PM

City Council Chambers



BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the matter of:
Richard Barnard

Appeal:
Variance & Appeal of the
Decision of the Zoning Officer

Property Location:
70 Northmont Street

Hearing Date:
November 14, 2018

PROCEDURAL BACKGROUND

Property owner Richard Barnard is requesting a VARIANCE per the City Code §265-128 related to the rear yard requirement for camper storage and he is appealing the of the Decision of the Zoning Officer regarding the Notice of Violation & Order to Abate dated August 16, 2018 related to §265-48F. Subject property is zoned **R-1 Single Family Residence District**.

Members of the board present: Charlotte Kuhns-Chair
Jon Hillwig
Barry Gaetano
Justin Calisti

Absent: Patsy Iapalucci-Vice Chair

Also Present: Lou DeRose, Solicitor
Barbara J. Ciampini, Planning Director

Charlotte Kuhns introduced the Board Members present and advised all persons present who planned to participate in the scheduled hearing to stand and be sworn in.

There were no objections to advertising or procedure at the onset of the hearing.

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DISCUSSION

Charlotte Kuhns: The first hearing today involves Richard Barnard. Richard is requesting a variance on his property. I'll read the notice to you. Property owner Richard Barnard is requesting a VARIANCE per the City Code §265-128 related to the rear yard requirement for camper storage and he is appealing the of the Decision of the Zoning Officer regarding the Notice of Violation & Order to Abate dated August 16, 2018 related to §265-48F. Subject property is zoned R-1 Single Family Residence District. We'll have you call and speak. State your name and address please.

John Sweeney: Honorable members of the board, my name is John Sweeney and I'm an attorney here in town. I'm representing Richard and Kathy Barnard regarding tonight's proceedings. I think primarily the thrust of our presentation has to do with the variance. I'm not sure how procedurally you want to hand the appeal of the code violation. We did take the appeal and that's generated the variance request, so there's a fair amount of overlap to any defense to the enforcement appeal and the variance request. We're here asking for relief from that portion of the zoning ordinance that requires that campers be parked in the rear of the house. My clients have a camper, which I'll describe to you. We have some photos to show you that they park for part of the year at the residence typically for the camping season. We'll have evidence that it's typically there from late May until about the middle of October at the latest. Right now it's in an indoor storage place up in Brady's Bend, Pennsylvania. Mr. Barnard will be able to tell you more. They are frequent campers. They're gone three (3) to four (4) weeks a month. If the trailer is there it's to either unload or load; Monday, Tuesday, Wednesday perhaps, so the thrust of our variance is to park the trailer essence as indicated on the display up there for that time period from May, Memorial Day, until about Columbus Day with the understanding that it's only there two (2) to three (3) days a week at the most those weeks that the camping occurs. It's not stored year round on the property as I've indicated, so if you're ready for us to proceed then I'm ready to go. I'd like to call Dick Barnard. You'll have to come over here, Richard, since it's being recorded for the record. You're Richard Barnard?

Richard Barnard: I am.

John Sweeney: You're the record owner of the property at 70 Northmont?

Richard Barnard: Yes.

John Sweeney: How long have you lived at 70 Northmont, Mr. Barnard?

Richard Barnard: About 27 years.

John Sweeney: How long have you lived in the City?

Richard Barnard: All my life.

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John Sweeney: The residence that's depicted on the photograph above us, is that an accurate representation of the residence?

Richard Barnard: It is.

John Sweeney: The green space to the right of the photo by the white house, there's a little fireplace there, is that your property as well?

Richard Barnard: It is.

John Sweeney: Why is that open like that?

Richard Barnard: There's a sewer line that goes right through that property.

John Sweeney: Okay. Does it also cover a tributary to Jack's Run runs down from across the street?

Richard Barnard: Yes it does.

John Sweeney: So, you're restricted on your ability to build on that portion of the property?

Richard Barnard: Right.

John Sweeney: For the purpose of tonight's proceeding, we attached a survey to the application. Did you have an occasion to make some marks on that survey?

Richard Barnard: Yes, I did.

John Sweeney: Okay. I'm going to show you what I've marked as *Exhibit 1*. Take a look at that for me. Can you tell me what that is?

Richard Barnard: Yes, that's the site survey for our property on Northmont Street.

John Sweeney: The highlighted hand written notes, are those yours?

Richard Barnard: Those are mine.

John Sweeney: Okay. I'd like to offer some copies of the survey.

Charlotte Kuhns: We'll accept this as *Exhibit 1*.

John Sweeney: Looking at the copy on the screen, Mr. Barnard, there's a little circle with an "MH" on it. What is that?

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Richard Barnard: Right. That is a manhole cover.

John Sweeney: Why is that on the property?

Richard Barnard: When we had a flood about 10 years ago in Northmont we actually put a backflow valve on our sewer line because we had a backup into our basement to prevent that in the future.

Justin Calisti: Are you down in the turn where the creek comes up from the other side?

Richard Barnard: Yes I am.

Barbara Ciampini: It was August 9, 2009.

Charlotte Kuhns: Did you get flooded too?

Barbara Ciampini: I live right around the bend.

John Sweeney: Did you measure the distance between the manhole—the portion of the survey that says concrete slab, is that where the trailer is viewed on the other photo we saw?

Richard Barnard: Yes.

John Sweeney: Okay. The little rectangle behind that, how much room is there between that portion of your residence and the manhole cover?

Richard Barnard: Eight (8) feet.

John Sweeney: Can I approach this screen?

Barbara Ciampini: Yes.

John Sweeney: So, from the manhole cover up to this part of your property it's eight (8) feet?

Richard Barnard: Yes it is.

John Sweeney: And you measured that?

Richard Barnard: Yes.

Barbara Ciampini: It's depicted on this exhibit.

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John Sweeney: Yes. That's depicted by the purple. That's about nine (9) feet you said?

Richard Barnard: Eight (8) feet.

John Sweeney: Okay, eight (8) feet. Further down from the manhole cover towards the property line was shank, you had indicated on your diagram on *Exhibit 1*. What's that?

Richard Barnard: There's a tree there.

John Sweeney: I had numbered these in sequence for what I thought I was going to use, but now I'm not. I'm just going to show you what has been marked *Exhibit 4*. Can you tell me what that is?

Richard Barnard: That's the right hand side of our property?

John Sweeney: Does that show the manhole cover and tree we've talked about?

Richard Barnard: Yes it does.

John Sweeney: I'd like to offer *Exhibit 4*.

Charlotte Kuhns: We'll admit this as *Exhibit 4*.

John Sweeney: Let's do this. We'll admit *Exhibits 2* and *3* so we don't confuse Ms. Ciampini. Can you tell me what those are?

Richard Barnard: That's the front of the house.

John Sweeney: From Northmont?

Richard Barnard: It is.

John Sweeney: Between the manhole cover we've talked about and the tree that's in *Exhibit 4*—let's back up a little bit. The trailer that's in the pictures, how long is that trailer?

Richard Barnard: Roughly 20 feet.

John Sweeney: How wide is that trailer?

Richard Barnard: 8 ½ feet.

John Sweeney: When you tow that trailer, do you use an SUV?

Richard Barnard: I use an SUV.

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John Sweeney: Where it's depicted in the photographs, is that where you keep it when you're not camping in the summer?

Richard Barnard: Yes.

John Sweeney: Are you able to back the trailer between the manhole cover and the pad and the portion of your residence.

Richard Barnard: No.

John Sweeney: Are you able to back the trailer between the manhole cover and the tree?

Richard Barnard: No.

John Sweeney: How much space is between the tree on *Exhibit 1* to the shank property line?

Richard Barnard: Maybe two (2) to three (3) feet.

John Sweeney: The photo we provided, which was marked *Exhibit 4*, if the line was marked with shanks would that be visible in the photograph? Looking at the photograph here, where--

Richard Barnard: I'm probably standing at the line.

John Sweeney: You're standing at the line? Okay. So there's no way to go the other side of the tree opposite of the manhole cover?

Richard Barnard: No.

John Sweeney: So there's no way you can maneuver the trailer on the other side of the tree without going onto the neighbor's property. Is that correct?

Richard Barnard: That's correct.

John Sweeney: I'm going to show you what's been marked as *Exhibit 5*. Can you tell us what that is?

Richard Barnard: Yes, again that's the right hand side of our property that shows the manhole cover.

John Sweeney: Okay, and I'm going to show you what's been marked *Exhibit 6*.

Richard Barnard: Okay.

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John Sweeney: What's that?

Richard Barnard: That's the manhole cover that we actually put in.

John Sweeney: Okay. I'd like to offer *Exhibits 5 and 6*. How high is the manhole cover above the ground?

Richard Barnard: Nine (9) inches.

John Sweeney: Are you able to go over the manhole cover with the trailer?

Richard Barnard: I cannot.

John Sweeney: And the manhole cover had to be constructed as a result of flooding that occurred in your basement?

Richard Barnard: That's correct.

John Sweeney: It empties out into the sewer line that's indicated on the map?

Richard Barnard: Right.

John Sweeney: This photograph that we see here, there's a pile of logs—do you see where I'm indicating? How close is that to your--

Richard Barnard: That's on the line.

John Sweeney: That's right on the line, okay. Where the doors are, is this a new addition to the house?

Richard Barnard: Yes, we added that this summer. It's a shed.

John Sweeney: Prior to that being added on the diagrams and the porch that's indicated, were those on the house when you purchased the house?

Richard Barnard: There was a porch there but we replaced it.

John Sweeney: Is the replacement porch basically the same size as the original?

Richard Barnard: Yes.

John Sweeney: The fence that's there, did you put that in?

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Richard Barnard: I did.

John Sweeney: When did you put that in?

Richard Barnard: 27 years ago.

John Sweeney: The adjoining property that's there that looks like there's a little storage bin, how far from the property line is this storage bin?

Richard Barnard: Three (3) feet.

John Sweeney: How much distance is from the white doored addition to the property line?

Richard Barnard: 18 ½ feet.

John Sweeney: Okay. If you were able to back your trailer, if you had access to this portion of your yard and put it perpendicular to those white doors, would it be covered by the back of the house?

Richard Barnard: No. That's only ten (10) foot wide.

John Sweeney: If you parked it in the same—if you parked it with it backed into where the doors are would it hang over into the neighbor's property line?

Richard Barnard: It would.

John Sweeney: How much room is between the porch that's on the back of the property that was there when you purchased the property to the adjoining property line where the little bin is?

Richard Barnard: Nine and a half (9 ½) feet.

John Sweeney: How much room is it from the rear of your house behind the fence to the property line? Let me ask you this, the deck that's diagrammed on the survey, how wide is that?

Richard Barnard: It's 12 foot wide.

John Sweeney: I'm going to show you what I've marked as *Exhibit 7*. Can you tell the board—

Richard Barnard: Yes, that's the left hand side of our house.

John Sweeney: Left hand, you're looking at it from Northmont, correct?

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Richard Barnard: Right.

John Sweeney: You took all of these photographs, correct?

Richard Barnard: Yes.

John Sweeney: How much room is between your house and your neighbor's house looking at the left of the property?

Richard Barnard: Five (5) feet.

John Sweeney: I offer *Exhibit 7*.

Lou DeRose: Let the record show that all of the exhibits Mr. Sweeney's offering have been admitted and we'll consider them. You may have them back if you need them.

John Sweeney: Okay. Let's talk about the pattern of your use of your property to have your trailer there. I had eluded to the board when I opened that when do you typically—where's the trailer right now?

Richard Barnard: It's in Brady's Bend Underground Storage.

John Sweeney: When do you typically pick it up to begin camping in the summer?

Richard Barnard: Usually anywhere between Memorial Day and June 1st.

John Sweeney: How often a month—how many weekends a month do you go camping?

Richard Barnard: Usually three (3).

John Sweeney: Three (3) out of four (4)?

Richard Barnard: Right.

John Sweeney: Do you have occasion where you take the camper for a weeklong vacation ever?

Richard Barnard: Sometimes.

John Sweeney: If we take a typical summer weekend that you and your wife are going camping, when do you and your wife begin preparing the trailer?

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Richard Barnard: Usually if we leave on a Thursday I start on a Tuesday.

John Sweeney: That involves—do you charge the trailer at the house?

Richard Barnard: We have to charge the battery—there's a lot of things you have to do. The refrigerator in the trailer, if you want to use it on a weekend camping trip, has to be turned on 24 hours before you want to use it. It takes 24 hours to get cold. There are other things you have to do like load the food, the clothing and do maintenance.

John Sweeney: So for you to leave on a Thursday you would have to have the trailer there at the latest on a Wednesday morning, is that a fair statement?

Richard Barnard: Yes.

John Sweeney: When do you typically return?

Richard Barnard: Sunday night.

John Sweeney: Is it typically late?

Richard Barnard: Yes.

John Sweeney: When is it then that you unpack?

Richard Barnard: We start Monday morning.

John Sweeney: And how long—do you get that done on a Monday?

Richard Barnard: Not usually. Usually it takes a day or a day and a half.

John Sweeney: So by Tuesday morning you're done?

Richard Barnard: Yes.

John Sweeney: So from Tuesday morning until Wednesday afternoon is when the trailer is not being used for the camping activity?

Richard Barnard: Right.

John Sweeney: The weekend that you might skip, it would be there from the prior Sunday night until that following Wednesday?

Richard Barnard: That's correct.

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John Sweeney: When do you typically return the trailer to Brady's Bend?

Richard Barnard: Usually anywhere between October 1st and October 15th.

John Sweeney: Did you have occasion to calculate based on that camping schedule that we've talked about how many days the trailer would actually be parked in front of the house in a year?

Richard Barnard: 80.

John Sweeney: 80?

Richard Barnard: Yes.

John Sweeney: Have you found your occasions to go camping increasing over the last several summers?

Richard Barnard: Yes.

Lou DeRose: John and Richard, the backyard problem I think you have demonstrated what the situation is. I don't think you need to spend any more time on that. Do I understand though that what actually happens is on those maybe 80 nights or days a year you pull the trailer up the driveway and get it as close to the bump out part of the house as you can, is that right?

Richard Barnard: That's correct.

Lou DeRose: And how far therefore does it hang out in what we would call the front yard?

Richard Barnard: Probably six (6) feet.

Lou DeRose: On the driveway. It's on the paved portion of the driveway.

Richard Barnard: Yes it is.

John Sweeney: In fact, it probably—

Barbara Ciampini: It's still behind.

John Sweeney: Pardon me?

Barbara Ciampini: It's still behind your bay window portion.

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Richard Barnard: Right.

John Sweeney: If you look at the bay window, if you would be standing there, most of the trailer would be hidden by that side of the house.

Lou DeRose: Okay. I think we can dispose of the violation just because of the almost impossibility of it. What about—what are you asking for on the variance?

John Sweeney: What we asking for is what he's described; that they could pick the trailer up around Memorial Day, return it Columbus Day and be able to store the camper on those days during the summer.

Lou DeRose: Well, I'm more interested not in how many days a year because variances run with the land. What do you want? Do you want the ability to park it where the picture demonstrates in front of the what I'm calling the jut out, and extending down not even as far as the bay window.

Richard Barnard: Right.

Lou DeRose: Is that correct?

Richard Barnard: That's correct.

Lou DeRose: And in terms of distance that would be—how long is the trailer?

Richard Barnard: 20 feet.

Lou DeRose: 20 feet. So, 20 feet back from the jut out towards Northmont, right?

Richard Barnard: That's correct.

Lou DeRose: That's what you're asking for?

Richard Barnard: Yes.

Lou DeRose: Anybody have any questions about that?

Barry Gaetano: You don't plan on getting a different trailer?

Richard Barnard: This is it.

Barry Gaetano: So you wouldn't get a bigger one?

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Richard Barnard: No.

Barry Gaetano: Okay.

John Sweeney: And we would understand that if the board grants this it would be for this trailer only.

Justin Calisti: How long have you been doing this? How long have you had a camper?

Richard Barnard: 17 years.

Justin Calisti: Okay, and you've always parked it there?

Richard Barnard: Yes. Actually we had a pop up when my son was growing up.

Justin Calisti: Okay, so those are roughly ten (10) feet or somewhere in there.

Richard Barnard: Oh no, they're about the same length as this thing. It was pretty long.

Justin Calisti: Okay.

John Sweeney: Where did you park the pop up?

Richard Barnard: We parked it actually where the new shed that we added onto our house is where we parked it.

Justin Calisti: Okay, so it was actually further back.

John Sweeney: Yes.

Richard Barnard: Probably.

Barry Gaetano: So just for informational purposes, you do have a piece of property beside that jut out in between that and the manhole—

Richard Barnard: Right.

Barry Gaetano: Had you ever thought about parking it on the side of the house?

Richard Barnard: We did park it there on the side of the house for years, but that's why when we added the shed—we were unable to put the shed in the backyard for the same reason I can't park my camper.

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Barbara Ciampini: Yes, I couldn't give him a permit to put the shed in the backyard, because they don't have an area to put the shed in the backyard.

Richard Barnard: So we added the shed.

Barry Gaetano: So it was either the shed or the trailer?

Barbara Ciampini: Yes, that's pretty much where we are.

Lou DeRose: Unless somebody on the board has a problem with this it would seem to me that the appropriate motion, actually two (2) motions, right? The first motion to handle one (1) way or the other the decision of the Zoning Officer either by overruling that and dismissing the crime as it were, that would be the first motion one (1) way or the other, and the second motion would be grant a variance. Usually when we think of variances we like to have numbers in them but I think we have enough of a concept here that we don't need actual numbers just coming back no more than the 20 foot current trailer from the shed back towards Northmont.

Barbara Ciampini: I just wanted to add that as part of the Pennsylvania Municipalities Planning Code that I always advise you about those five (5) criteria that it has to meet. This property definitely meets the criteria for a variance.

Barry Gaetano: I will make a motion then to rescind the Zoning Officer's violation for the encroachment on the rear yard.

Justin Calisti: I'll second.

Charlotte Kuhns: Could we have a vote please?

Patsy: absent

Jon: Yes to rescind the violation notice

Barry: Yes to rescind the violation notice

Justin: Yes to rescind the violation notice

Charlotte: Yes to rescind the violation notice

Motion passed by a majority vote.

Barry Gaetano: So then I'll make a second motion to allow for a variance to be able to park the travel trailer for the 20 feet from the jut out of the shed towards Northmont not to extend past for that particular trailer.

Barbara Ciampini: Do we have to say from May to October?

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Lou DeRose: No.

Charlotte Kuhns: Do we have a second?

Jon Hillwig: I'll second.

Charlotte Kuhns: Alright, can we have a roll call?

Patsy: absent

Jon: Yes to grant the variance

Barry: Yes to grant the variance

Justin: Yes to grant the variance

Charlotte: Yes to grant the variance

Motion passed by a majority vote.

Chairwoman Charlotte Kuhns made the following statement: Within 30 days of the date of this decision of the board, this decision may be appealed to the Court of Common Pleas of Westmoreland County. It is important that you understand that the persons requesting the action may take an appeal of this decision to the board against him, but those opposed to his or her requests may also take an appeal within the 30 day period. If the action of the board results in an approval of the request or an individual, no work may proceed on the property until the 30 day appeal period has expired. Anybody who would like to request a copy of this decision, you can leave your name and address with the secretary.

*Items entered as Exhibits:

1. Exhibit 1 – Survey of the property with handwritten notes by Richard Barnard.
2. Exhibit 2 – Photograph of the front of the structure showing the trailer parked in the driveway.
3. Exhibit 3 – Photograph of the front of the structure from Northmont Street showing the trailer parked on the driveway.
4. Exhibit 4 – Photograph of right side of property showing the tree and manhole cover.
5. Exhibit 5 – Photograph of right side of property showing the manhole cover in relation to the new shed structure.
6. Exhibit 6 – Photograph of right side of property showing manhole cover.
7. Exhibit 7 – Photograph of left side of property showing how close property is to the neighbor's.

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Board member Barry Gaetano motioned to adjourn the meeting.

*Meeting adjourned at 4:30pm.

City of Greensburg Zoning Hearing Board

APPEAL OF: Richard Barnard

DATE: 14 November 18

SUBJECT PROPERTY: 70 Northmont Street, City of Greensburg

HEARINGS HELD: 14 November 18

INTERPRETATION

The Board adopted the following order, which states its interpretation of the Zoning Ordinance as requested in your Appeal.

VARIANCE AS PER §265-128 OF THE CITY CODE RELATED TO THE REAR YARD REQUIREMENT FOR CAMPER STORAGE AND HE IS APPEALING THE DECISION OF THE ZONING OFFICER REGARDING THE NOTICE OF VIOLATION & ORDER TO ABATE DATED AUGUST 16, 2018 RELATED TO §265-48F. SUBJECT PROPERTY IS ZONED R-1 SINGLE FAMILY RESIDENCE.

DECISION: ☒ Granted/Upheld
☐ Denied
☐ Other

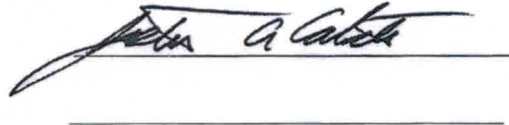
A list of the Findings of Fact, as determined by the Board is attached and is made part of this decision.

Unless otherwise stated, any authorization by the Board for a Special Exception, Variance, or other determination shall expire if the applicant fails to obtain a Building Permit within six (6) months from the date of authorization, noted above.

BY:

CITY OF GREENSBURG ZONING HEARING BOARD


Charlotte Kuhns
CERTIFIED MAIL sent to property owner:


Peter A. Carter