



Town of Cedar Point
Board of Adjustment
July 22, 2021

The Town of Cedar Point Board of Adjustment held a Hearing on Thursday, July 22, 2021 at 6:30 PM. The purpose of this Hearing is to hear and discuss evidentiary testimony concerning **Variance Application 2021-01**: a request to allow an illegally placed shed to remain on a vacant parcel of land (169 Sunset Drive) for up to 4 months while the property owner pursues a building permit for the construction of a new single-family dwelling on the property.

Chairman Winberry called the meeting to order at 6:30 PM.

PRESENT: Chairman Winberry, Members Castellano, Hatsell and Nash, Town Attorney Whitford, Town Manager Rief, Town Clerk Calhoun and public.

The Minutes from the May 22, 2019 Meeting were presented for Board consideration and approval. Member Nash made a **Motion** to approve the May 22, 2019 Minutes as presented. The Motion carried 4-0.

Chairman Winberry opened the Evidentiary Hearing.

Town Clerk Calhoun presented an overview on the nature of a Quasi-Judicial proceeding and the conduct of this type of hearing. Witnesses wishing to provide evidentiary testimony were sworn in.

The Board was polled concerning any partiality any member may have pertaining to this case. There was none.

The Board was polled concerning site visits or ex parte communications. There were no site visits conducted or any ex parte communications by any of the members.

The Board was polled concerning other member's participation in the hearing. There was none.

Chairman Winberry called Kaitlin DeGrasse, Code Enforcement Officer to come forward to read and review the application to the Board. Ms. DeGrasse read the application.

41 Mr. Rief stated that a temporary structure would be allowed once a permit is secured for the
42 primary structure. It was unclear if the applicant's septic plan was accepted.
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44 Mr. Whitford asked Mr. Rief, if, at the site visit, could it be determined that the shed could be
45 placed permanently? Mr. Rief answered that he was unsure, but that it must be no closer to the
46 front line of house. Mr. Whitford asked if hurricane proofing was applied, to which Mr. Rief
47 answered that this was not inspected because the problem was its existence, not that it was
48 properly hurricane proofed.
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50 Mr. Whitford asked Ms. DeGrasse if the shed was hurricane proofed, and Ms. DeGrasse
51 answered that it was not inspected for hurricane proofing as this was not the issue.
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53 Mrs. Davis, the applicant, stated the shed is strapped for hurricane proofing and there are also
54 flood vents installed. She also stated that she wants to comply with any and all Town
55 regulations.
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57 Member Nash asked Mrs. Davis the approximate date the shed was installed, and Mrs. Davis
58 indicated that it was installed sometime in July, 2020. She also stated that it would be
59 considered a temporary structure as of now but would become permanent once the house is built.
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61 Member Hatsell asked the applicant if any other permits have been secured, and Mrs. Davis
62 stated that just the septic has been secured, they are working with the County for the other
63 permits.
64

65 Mr. Whitford asked if a County permit was secured for the shed, and Mrs. Davis answered that a
66 County Permit was not necessary. She also stated that the shed cost \$6,000.
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68 Town Clerk Calhoun directed the Board to decide: does the record include competent, relevant,
69 and substantial evidence that:
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- 71 1. Substantial hardship would result from the strict application of the ordinance.
- 72 2. The hardship results from conditions that are peculiar to the property, such as
73 location, size, or topography and not resulting from personal circumstances or
74 hardships that are common to the neighborhood or general public.
- 75 3. The hardship did not result from actions taken by the applicant or property owner.
- 76 4. The requested variance is consistent with the spirit, purpose, and intent of the
77 ordinance, such that public safety is secured and substantial justice is achieved.
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79 Mr. Whitford stated that this is an unusual situation. The shed may or may not be in compliance
80 based upon placement of primary structure, the Board will struggle with the list of standards to
81 justify a variance. Mr. Whitford suggests tabling this matter to the November 23, 2021 meeting,
82 which is four months from now. He recommended confirming the hurricane proofing, apply
83 conditions to include an application for a building permit by November 23, 2021.
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85 Member Castellano that this situation required a unique solution, but that the applicants could
86 have found a way to make this work.

87 Member Hatsell asked when will a permit be secured, and Mr. Whitford answered within four
88 months.
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90 Mrs. Davis stated that their hope was to have all the required permits within four months.
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92 Member Hatsell pointed out that it would be impossible for the Board to agree upon the
93 application meeting the four standards. He did not see the harm in tabling this matter as Mr.
94 Whitford suggested.
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96 Mrs. Helen Gross, adjacent property owner, asked who would be liable should the shed cause
97 damage due to a hurricane? Mr. Whitford indicated that homeowner would be liable for any
98 damages.
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100 Member Nash stated that it would be difficult for him to grant the variance based on the evidence
101 provided. He would rather have the shed moved.
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103 Member Bray has no issued tabling the matter.
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105 Mr. Rief pointed out that this particular parcel was at one time one larger parcel.
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107 Town Clerk Calhoun swore in Mrs. Helen Gross.
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109 Mrs. Gross expressed concern over the camper, the generator, the shed placement. She stated
110 that she just wants consistency.
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112 Member Winberry stated that the applicants were not intending on breaking rules.
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114 Member Castellano agreed that the Motion should be tabled until November 23, 2021, subject to
115 the conditions Mr. Whitford specified.
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117 Mr. Whitford cautioned the applicants that if flood and hurricane requirements are not met, then
118 the Board of Commissioners will re-examine this matter at their August meeting.
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120 There being no further business to discuss, the meeting was adjourned. Chairman F. Winberry
121 made a **Motion** to adjourn the meeting. The Motion carried unanimously.
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123 The meeting adjourned at 7:22 PM.

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Frankie Winberry, Chairman


Jayne Calhoun, Town Clerk