

RESOLUTION NO.: 25-2013
INTRODUCED BY: Alexander

A RESOLUTION CONFIRMING THE ACTION OF THE ZONING BOARD OF APPEALS TO DENY THE REQUEST FOR VARIANCES TO CONSTRUCT AN OVERSIZED ACCESSORY STRUCTURE AT 160 RICHMOND ROAD.

WHEREAS, Myrle Weems, for property located at 160 Richmond Road in the City of Richmond Heights, filed an application with the Zoning Board of Appeals (Case No. 802) requesting variances from the accessory building regulations governing Single-Family Residential Districts to permit the construction of an accessory structure similar to a greenhouse and known as a “seasonal high tunnel”, with a proposed footprint of 30 ft. x 72 ft. in size (2,160 sq. ft.), in contravention of Zoning Code Section 1135.04(c)(2)(B) that permits such an accessory structure to be a maximum of 240 square feet and to permit the subject structure to be 13 ft. in height when Zoning Code Section 1135.04(c)(2)(A) permits a maximum height of 11 ft. for such structures; and

WHEREAS, pursuant to Section 1185.07 of the Zoning Code, the Zoning Board of Appeals recommended that the Council deny the requested variances as set forth in the minutes of the Board’s public hearing for Case No. 802; and

WHEREAS, at its meeting on April 2, 2013, the Planning and Zoning Committee of this Council recommended to the Council as a whole that the variances not be granted;

NOW, THEREFORE, Be It Resolved by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: The action of the Zoning Board of Appeals of the City in recommending the denial of the requested variances to the applicant, Myrle Weems, from Codified Ordinance Section 1135.04(c)(2) (A) and (B) who wishes to construct an accessory structure, a 30 ft. x 72 ft. (2,160 sq. ft.) greenhouse-type structure, known as a “seasonal high tunnel”, and at a height of 13 ft., at 160 Richmond Road, and which action was set forth in the March 6, 2013 minutes of said Board be, and the same is hereby, confirmed.

Section 2: This Council finds that there does not exist a practical difficulty which outweighs the limitations set forth in the Zoning Code and the granting of the variances would be contrary to the purpose and intent of the Zoning Code.

Section 3: This Council hereby adopts the following conclusions of fact to support this decision to confirm the denial of the requested variances:

- (a) The applicant admitted that the subject property will yield a reasonable return and there is a beneficial use of the property without the variances that have been requested. The property is being used by the applicant as a single-family residence which is what the property was intended to be used for. Additionally, the gardening of vegetables is permitted in this Zoning District and on this property but an accessory structure of this size, whether used for the growing of vegetables or not, is not permitted under the Zoning Code regulations.
- (b) The variance requested for the size of the footprint of the proposed structure is substantial in that it is nine times larger than the 240-square foot maximum size permitted by the Zoning Code. The proposed size is 2,160 square feet. The requested square footage of the proposed structure is much larger than the size of other accessory structures that have been approved through variances in the past.
- (c) The essential character of this neighborhood would be substantially altered and the adjoining residential properties which front along the side lot line of the subject property would suffer interference with their rights related to their properties as a result of the variances being requested because this overly large accessory structure would be clearly visible from the front of those adjoining properties, as well as the properties on Skyline Drive. The proposed structure will be visible all year because of the height of the deciduous trees on the subject property but particularly when the leaves are off the deciduous trees on the subject property. Additionally, the juniper trees planted by the applicant are not of sufficient size at this time to help in screening the proposed structure and may not be in the future. The neighboring property owners testified that it would be aesthetically unpleasing to have to view the proposed structure from the front of their properties.
- (d) The applicant purchased the property without actual knowledge of the zoning restrictions at issue in this case but the restrictions were a part of the Zoning Code at the time of his purchase of the property.
- (e) The only unique characteristic of the property in question is its size of four acres but its unique size does not support the granting of the variances due to the narrowness of the lot and the fact that two neighbors' properties front on the side lot line of the subject property

directly across from the applicant's backyard where the proposed structure would be located.

- (f) The applicant's predicament for which he is applying for these variances can be feasibly resolved through other methods than the variances since the purpose of growing these vegetables is to serve persons near the applicant's church on the west side of Cleveland and not persons in Richmond Heights and a seasonal high tunnel could be constructed some place else for the benefit of those nonresidents of the City. The applicant could also construct a Code-conforming greenhouse or other such structure to grow vegetables on a smaller scale or plant gardens in his backyard without a structure.
- (g) The purpose, intent and objectives of the Zoning Code and the Master Plan of the City of Richmond Heights would not be observed and substantial justice would not be done by granting these variances because this is a single-family residential zoning district and the purpose of the seasonal high tunnel is to grow vegetables for persons other than the occupants of the single-family home on the premises or the applicant's family. Also, he intends to have other persons who do not reside at the property to come to the structure to assist in the work related to the plants being grown in the tunnel. Such activities are not compatible with a single-family neighborhood and the particular layout and orientation of the lots in this neighborhood.
- (h) The request for the height variance of 2 feet for this proposed structure should not be granted at this time since it is integrally related to this proposed type of structure and its proposed construction and the fact that the applicant is insisting on the construction of a 30 foot by 72 foot seasonal high tunnel and the variance for that size of footprint is not being granted.

Section 4: The Clerk is instructed to mail a copy of this Resolution to the applicant.

Section 5: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 6: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council