

# Board of Zoning Appeals

## Munson Township

Minutes of October 20, 2011

Chair Bobbie Nolan called the hearing to order at 6:30pm. Gabe Kezdi, Lucy Longo, Richard Wright, Secretary Paula Friebertshauser, Zoning Inspector Tim Kearns, and Court Reporter Kim Geil, were present. Don Alexander, Lonny Beck and Sophie Horvath were absent. The Pledge of Allegiance was said.

Gabe Kezdi moved and Richard Wright seconded to approve the minutes of September 15, 2011 as written. Motion carried.

Ms. Nolan explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. They take facts as presented and apply certain standards of law to then make a decision. A court reporter is present so that anyone wishing to speak for or against the case must be sworn in for the record. The record is made up of testimony and evidence presented. Anyone not in agreement with the decision of the Board could take the case to the Court of Common Pleas within 30 days after the minutes of the meeting are approved.

Tim Kearns, Zoning Inspector, was sworn in. He asked the Board if they would like to hear Cases 11-14 and 11-15 together. All members agreed, and Chair Bobbie Nolan advised they will be voted on separately.

**CASE 11-14: Michael Payne of Payne & Payne Builders, 10762 Mayfield Rd., Chardon, OH –** request to put a driveway 0 ft. from the east side property line; a driveway 0 ft. from the west side property line; and requesting exemption from the requirement to have an unloading/loading space. Violates SEC. 511 Driveway shall be a minimum of 15 ft. from any lot line; SEC. 521.3 Number of Loading/Unloading Spaces Required – for commercial and industrial uses permitted in this Resolution shall have at least one Loading/Unloading Space for each use.

**CASE 11-15: Michael Payne of Payne & Payne Builders, 10750 Mayfield Rd., Chardon, OH –** request to put a driveway 0 ft. from the east side property line. Violates SEC. 511 Driveway shall be a minimum of 15 ft. from any lot line.

Mr. Kearns read the variance requests and violations. He explained Mr. Payne does not own the property at 10762 Mayfield Road, but the owner provided a notarized letter affirming that Mike Payne Jr. is applying for a variance. The sale of the property is contingent upon the granting of the variance. Mr. Kearns approached the table and pointed out that the driveway to the east of the building at 10762 Mayfield is right on the property line and doesn't have 12 feet in width. Payne & Payne is requesting access to the back of the property and also would like to connect to their parking lot next door. Mr. Kearns also explained there is not enough space to have the required loading/unloading space. Ms. Nolan questioned the fact that since the driveway already exists to the east of the building it doesn't need a variance. Mr. Kearns concurred.

Michael Payne was sworn in. He presented photographs of the property and explained the lot next to the Payne & Payne business is 50 feet wide and 120 feet in depth. It can provide value to them as it will

square up their property, and they need additional parking and office space. He didn't know whether they would make the parcels one property – it would be a septic issue. Their intention is to enhance the 20 x 30 sq. ft. building which is vacant.

Mr. Kezdi asked if the area in front of the building would be repaved. Mr. Payne responded that he would like to see the front of the building landscaped.

Ms. Nolan stated for the record that 15 affected property owners were notified of Cases 11-14 and 11-15. There was no public comment.

Richard Wright moved and Gabe Kezdi seconded that the variance requested in Case 11-14 be approved as described. Mr. Wright provided the following discussion: we understand the property as mentioned has been vacant for several years, and not yielding a return; the plans will improve the property; there could be a beneficial use, but it has been on the market for some time; the variance is not substantial in light of what is being proposed; knowing what the Payne's have done on their property, the essential character of the neighborhood will not be altered; the delivery of government services will not be adversely affected; the property owner was aware of the zoning restriction upon purchasing the property; and the spirit and intent will be upheld by approval of this request. Upon the roll call, all members voted yes (4-0), motion carried.

Gabe Kezdi moved and Lucy Longo seconded that the variance requested in Case 11-15 be approved as written. Ms. Nolan offered that in light of the fact that the cases were heard together the discussion for Case 11-15 can be the same as that of Case 11-14. Upon the roll call, all members voted yes (4-0), motion carried.

Ms. Nolan asked Mr. Payne how soon they intend to purchase the property. Mr. Payne responded "a couple of weeks".

**CASE 11-16: Diane Lloyd, 10762 Wilson Mills Rd, Chardon, OH – request to extend driveway 8'10" from east side property line. Violates SEC. 511 Driveway shall be a minimum of 15 ft. from any lot line.**

Mr. Kearns read the variance request and violation, and discussed the diagram provided by the appellant.

Diane Lloyd was sworn in. She presented photographs of the area and explained that the garage in question faces to the side. When they bought the home in May, they were told they owned wherever the property was mowed. The property was surveyed and they found out they did not own where they thought. They do not want to access the garage every day, but would like to store a classic car. She explained they have water issues and showed a picture of how the roadway sits up higher and floods by the back door. They would like to put in drainage in the driveway. Mr. Wright verified the driveway would be gravel. Mrs. Lloyd explained they were going to black top, but were advised to put in drainage with gravel first to allow for settling.

Ms. Nolan stated for the record that 18 affected property owners were notified of Case 11-16. There was no public comment.

Gabe Kezdi moved and Richard Wright seconded that the variance requested in Case 11-16 by Diane Lloyd be approved as written. Mr. Wright provided the following discussion: the property as it exists with the misunderstanding of property lines was clarified and does yield a beneficial use, however with

the driveway request, the variance is not substantial; adjoining properties are wooded and have no concern with the driveway as presented; the essential character of the neighborhood will not be altered; it will improve the delivery of government services; the property was purchased without the knowledge of the zoning restriction, and can only be corrected through the variance; and the spirit and intent behind the zoning would be upheld by granting the request. Upon the roll call, all members voted yes (4-0), motion carried.

**CASE 11-17: Chris Ray**, 11430 Parkside Rd., Chardon, OH – request to construct a 12 x 22 ft. deck 12’ from the east property line and 24’ from the rear property line to a non-conforming structure. Violates SEC. 411 Minimum setback requirement from the side yard is 25 ft. and minimum setback requirement from the rear property line is 40 ft; SEC. 704 Nonconforming structures-no such nonconforming structure may be enlarged, altered or reconstructed in a way which increases its nonconformity within the minimum dimensional requirements of Section 411.

Mr. Kearns read the variance request and violation and referred to the diagram. He informed the Board that the house is on the corner of Orchard and Parkside Roads, and caught on fire over a year ago.

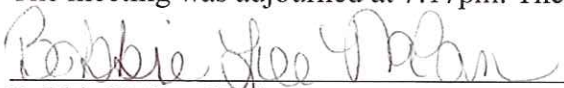
Christopher Ray was sworn in. He informed the Board that he purchased the property as an investment and is currently remodeling. He explained that the center property line bisects the house which makes it unfriendly to zoning. Ms. Nolan concurred that anyone wanting to do anything to their property in the Bass Lake area has to come for a variance, unfortunately the township cannot do “spot zoning”.

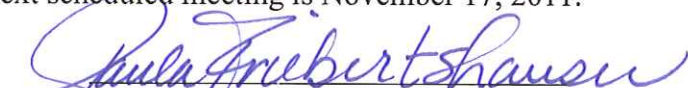
Mr. Wright asked if it would be a wood deck at ground level, Mr. Ray said yes. Ms. Nolan asked if it would be a rental property – Mr. Ray responded it would be listed for sale. Mr. Kezdi asked if it had new siding – Mr. Ray said yes, and new windows and furnace. Mr. Wright confirmed with Mr. Ray that the purpose is to enhance the property.

Ms. Nolan stated for the record that 12 affected property owners were notified of Case 11-17. There was no public comment.

Richard Wright moved and Lucy Longo seconded that the variance in Case 11-17 as requested by Chris Ray be approved as drawn and documented. Mr. Wright provided the following discussion: the property in question is being worked on and would yield a proper return, but it needs improvement; the variance is not substantial and is unique to the area; there would be no detriment to the essential character of the neighborhood and it will be aesthetically improved and can be seen from the street; the delivery of government services will not be adversely affected; the property owner did purchase the property with knowledge of the zoning restriction; the predicament cannot be feasibly relieved through some other way; and the spirit and intent behind the zoning will be upheld by granting the variance. Upon the roll call, all members voted yes (4-0), motion carried.

The meeting was adjourned at 7:17pm. The next scheduled meeting is November 17, 2011.

  
Bobbie Nolan, Chair

  
Paula Friebertshauser, Secretary