

Board of Zoning Appeals

Munson Township

Minutes of October 20, 2021

Vice-Chair Danielle Pitcock called the meeting to order at 6:30pm with Jim O'Neill, Joe Tomaric, Alternate Don Ondrejka, Secretary Paula Friebertshouser and Court Reporter Laura Ware present. Don Alexander and Dennis Pilawa were absent. The Pledge of Allegiance was said.

Jim O'Neill moved and Don Ondrejka seconded to approve the minutes of September 15, 2021, as written. Motion carried, 3-0.

Vice-Chair Pitcock explained the role of the Board of Zoning Appeals is to apply certain principles of law as required by the Ohio Supreme Court. She explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. The Board receives sworn testimony and applies that testimony and evidence to 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. If a case goes to court, decisions are based on what is presented the evening of the hearing. An affected property owner not in agreement with the decision of the Board could file with the Court of Common Pleas within 30 days after the minutes of the meeting are approved.

Mrs. Pitcock explained that there is normally a five-member Board but due to unfortunate circumstances only four members were present. With only four members a tie vote is a no vote. Each appellant could decide whether they want their case continued at no cost. All appellants wished to move forward with their cases.

CASE 21-14: Jason Giannetti 11405 Holden Ridge, Chardon OH – requests to install an inground pool with a safety power cover in lieu of a fence. Violates SEC. 514.3 (in part) Any outdoor in-ground swimming pool shall be surrounded by a barrier or a fence.

Mrs. Pitcock read the variance request and violation. Zoning Inspector Jim Herringshaw was sworn in. He explained photos he had taken with views to the north, south and east and pointed out the proposed location of the pool on the site map. He added that the house is set far back. Mr. Giannetti had gotten a zoning certificate already for the pool and fence just in case so he could begin his project.

Jason Giannetti was sworn in. He explained he is surrounded by a lot of property with trees and a retaining wall serving as a natural barrier. He opted for a cover that is 2,000 lbs. rated. Mr. Ondrejka asked him what would happen if the automated cover mechanism broke. Mr. Giannetti responded there is a manual option. Mr. Tomaric observed that it appears the pool will be surrounded by concrete, flower beds, woods and is 180 feet back with the only access from the house. Mr. Giannetti added that if the electricity goes out, he has a whole house generator.

Mrs. Pitcock stated for the record there were 39 affected property owners notified in Case 21-14. Dennis Florian of 11475 Holden Ridge commented that he lives two houses away and is in support of the variance request. He said Mr. Giannetti has three small children, and he has one and felt the pool cover was safe. Sonny Janosy of 11549 Holden Ridge lives a few houses down and said he has given Mr. Giannetti feedback and specs. He knows he is very conscientious regarding safety for all the neighboring children.

Joe Tomaric moved and Don Ondrejka seconded to approve the variance requested in Case 21-14 for Jason Giannetti of 11405 Holden Ridge to install an inground pool with a safety power cover in lieu of a fence. Mr. Tomaric commented that after considering the area variance factors, he saw no problem with granting the variance. Upon the roll call, all members voted yes, 4-0, motion carried.

CASE 21-15: Alfonso Marra 12615 Auburn Rd., Chardon OH – requests to construct a new residence with attached garage behind an existing building that will be used as an accessory structure. Violates SEC. 509.2- (in part) No garage or other accessory structure shall be erected within the front yard of any district; and SEC. 509.3- (in part) Accessory structures shall be located within the side and rear yards as set forth in Section 411.

Mrs. Pitcock read the variance request and violations. Zoning Inspector Herringshaw referenced the site plan and pointed out the existing small home and indicated the garage would be taken down. The small home would have the kitchen removed and be used as an accessory building for his music hobby. A new home would be built farther back on the property. Photographs taken showed the view from the road, the proposed location for the new home, and views to the north and south. Mr. Tomaric asked Mr. Herringshaw if two wells are allowed on the property. Mr. Herringshaw responded that zoning does not regulate that it would be up to the Health Department.

Alfonso Marra was sworn in. He explained that the small home is 750 square feet and about 185 feet from the road and dates back to 1935 or 1940. He bought the home 24 years ago. His son would like to build a new 2,600 square foot home in the back and keep the smaller building for a music studio.

Mrs. Pitcock stated for the record that 44 affected property owners were notified in Case 21-15. Ernest Kessler of 12622 Auburn Road said he has lived there before Mr. Marra owned the property. Since then, Mr. Marra has built a nice barn and pond and he felt they have enough land to build 300 feet off the road and he had no problem with the request.

Mr. Tomaric asked Mr. Herringshaw about a structure that appears to straddle the property line between Mr. Marra and his neighbor. Mr. Herringshaw responded it has been there since before zoning. It was used for agricultural use and is grandfathered in. Mr. Kessler commented that it used to house goats. No one seems to know who owns it. Mr. Marra commented he would look into the issue and would be willing to take it down.

Don Ondrejka moved and Jim O'Neill seconded to approve the variance requested in Case 21-15 as noted. Discussion following the motion included: there can and has been a beneficial use, but a beautiful home will be built; the variance is not substantial because the structure is so far back; the essential character of the neighborhood would not be altered, but made better; adjoining properties

would not suffer a detriment as a neighbor was present to support the variance; the delivery of government services would not be adversely affected; the predicament could be feasibly relieved by taking the small home down but it makes sense to keep it as it is useable; the spirit and intent would be observed and substantial justice done by granting the variance; and the property owner did not purchase the property with knowledge of the zoning restriction. Upon the roll call, all members voted yes, 4-0, motion carried.

CASE 21-16: Chris Cyrus Parcel #21-046650 Butternut Rd., Chardon OH – requests to construct a 30' x 40' pole barn 10' from the rear property line and 8' from the west side property line. Violates SEC. 411 Minimum Dimensional Requirements-minimum rear yard is 40 feet, and minimum side yard is 25 feet.

Mrs. Pitcock read the variance request and violation. Zoning Inspector Herringshaw explained that the first part of Mr. Cyrus' property is in Newbury and the rear part where the proposed structure would be located is in Munson. He pointed out photographs that showed the view from Butternut, proposed site of the pole barn, and views to the west, east and north property lines.

Chris Cyrus was sworn in. He explained he would like to put up a 30' x 40' pole barn and based on the location of the well he must be 12 feet from that. He purchased the property in 2016 and has a son who is three and a one-year-old daughter. The garage is packed with toys and a lawn mower. They also have a 30-foot camper that he would like to store in the pole barn with a truck, car, and the mower. Mr. Tomaric asked where the septic is located, Mr. Cyrus responded it is on the east side of the house near the driveway. Mr. Ondrejka asked if he would be extending the driveway. Mr. Cyrus said no, there is gravel there now.

Mrs. Pitcock stated for the record there were 23 affected property owners notified in Case 21-16. Diane Koehler of 11401 Westridge Circle was sworn in. She said they bought their home in 1980 when their two children were 6 and 19 months old. They knew their home was close to the side border and if they needed or wanted to make changes, they would require more space. In 1989, they bought the lot that currently borders Mr. Cyrus'. Their children are grown and live out of state and will not be moving back home so she and her husband thought of the vacant lot as investment property from then on. Mrs. Koehler said that as they have aged, they thought they could sell it to meet their needs. It is a beautiful, wooded lot and over the years they have been approached several times to sell. She did not even know about a variance until 2009 when a neighbor on the other side wanted to build a garage. He came to them with details and drawings of the building and asked if they would object; they told him no. She feels that was the worst decision because after the first year the building became a place for broken window frames, old doors, kids' toys, etc. and they could see it once the leaves were off the trees. She felt the large outbuilding redirected ground water and killed trees. On September 19th, Mrs. Koehler asked Mr. Cyrus what he was building, and he simply responded, "a garage." She pointed out that he is a real estate agent, and that Mr. Cyrus told her brother that he did not want to obtain a building permit because he did not want his taxes to increase. Mrs. Koehler said if the variance were to be granted, she felt strongly she would have the same experience as what occurred in 2009. Her property value would decrease, and regardless of where a house would be built on the vacant lot, the pole barn would be visible. She felt the lot goes down so drainage would be problem for her or prospective neighbors and for all those reasons she objected to the variance request.

When asked where her house was in relation to the proposed building site, Mr. Herringshaw pointed out on the site map her house, the vacant lot and her brother's house. Mr. Cyrus approached the table and presented a map with measurements to every dwelling. The garage to her house would be 405 feet. He also pointed out the location of a pond on the vacant lot. Mr. Ondrejka asked if the elevation of the proposed barn would be higher. Mr. Cyrus said it would be lower elevation.

Dan Klepfer of 11388 Westridge Circle and brother of Mrs. Koehler wanted to see the measurements presented. Mr. Herringshaw explained that they were from Geauga Realink, and he has been told the measurements can vary five feet. Mr. Klepfer commented he can see Mr. Cyrus' house. Mr. Cyrus countered only from the back of the property. Mr. Klepfer said he can see the house upstairs and down.

Mrs. Pitcock explained that the Board cannot do anything about the neighbor's structure from the previous variance.

Roger Simpson of 11350 Butternut Road commented that he did not have a problem with the variance request, and he is the closest with the structure being proposed at eight feet from the west side line. He thought the well site was the issue. Mark Platt of 13190 Butternut lives directly east of the Cyrus' and said there is 10 to 15 feet of brush and most of the time he cannot see the house other than sometimes in winter. Pat Happ of 11820 Sherman Road explained she knows the family and has seen how they have maintained and improved the property. They take a lot of pride in their home, and she thought they would be adding value. She welcomed having a young family in the community. Mr. Klepfer commented that it would not affect her. She countered that she has lived in the community for over 30 years.

Mrs. Koehler explained that with the shape of the vacant lot, a home would not go in front. Mr. Tomaric offered that with the dimensions from the southwest corner of her home 405 feet away to the closest corner of the proposed barn and if a radius was drawn it would be the same. Maybe he could gain 10 to 15 feet but it's insignificant and he felt the location is one of the better places for the barn. Mrs. Koehler felt he could go beyond the well, but he would have to put in fill dirt. Mr. Ondrejka pointed out that he could not go further west.

Joe Tomaric moved and Don Ondrejka seconded that the variance requested in Case 21-16 for Chris Cyrus Parcel #21-046650 Butternut Road to construct a 30' x 40' pole barn 10 feet from the rear property line and 8 feet from the west side property line be approved. Discussion following the motion included: there is a beneficial use as a house; the variance is not substantial based on the discussion; the essential character of the neighborhood would not be altered; there would not be a detriment to adjoining properties due to the location, distance and wooded area; the delivery of government services would not be affected; the predicament could not be feasibly relieved through some other method because of the position of the house and septic; the spirit and intent would be observed and substantial justice done by granting the variance; and the property owner did not know of the zoning restriction upon purchase. Upon the roll call, all members voted yes, 4-0, motion carried.

CASE 12-17: Steve Boughner of A to Z Contractors for Allison Titgemeier 11220 Mayfield Rd., Chardon OH – requests to construct a 20' x 23' attached garage 9' from the north side property line. Violates SEC. 411 Minimum Dimensional Requirements-minimum side yard is 25 feet.

Mrs. Pitcock read the variance request and violation. Zoning Inspector Herringshaw explained that the property was formerly known as Gray Horse Farm and there is an easement that goes back for frontage on Mayfield. He referenced photographs showing the front of the home; the proposed site (where the flagpole is), views to the north, west and east and the view from Mayfield Road.

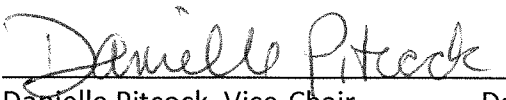
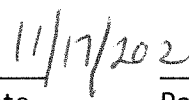
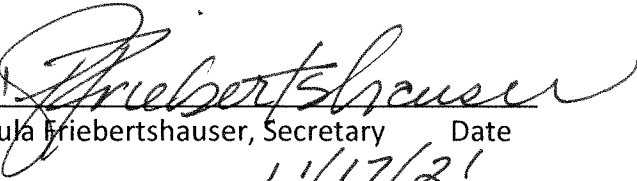
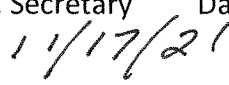
Mr. Ondrejka asked if the proposed garage would make it difficult for the fire department to access the nearest home. Mr. Herringshaw explained that 15 feet is the requirement between buildings and there is at least that. Nine feet is already there on her property, and the neighboring house is more than six feet the side property line.

Steve Boughner was sworn in. He explained that the property used to be family-owned and Mrs. Titgemeier's sister-in-law, brother and son used to live there but the other two properties have been sold. Mrs. Titgemeier was a snowbird but does not plan to go back and forth anymore and wants to put in a garage so she does not have to walk outside on the ice. She used to put her car in the barn but now the barn is under the homeowners' association.

Mrs. Pitcock stated for the record that 17 affected property owners were notified in Case 12-17. There was no public comment.

Don Ondrejka moved and Joe Tomaric seconded to approve the variance request in Case 12-17 as noted. Discussion following the motion included that there is a beneficial use, but it is not convenient; the variance is not substantial based on the discussion; the essential character of the neighborhood is not affected as all the properties have garages; there is no detriment to adjoining properties; the delivery of government services would not be adversely affected; the predicament could not be feasibly relieved through some other method; the spirit and intent would be observed and substantial justice done by granting the variance; and the property owner did know of the zoning restriction. Upon the roll call, all members voted yes, 4-0, motion carried.

The meeting was adjourned at 7:40pm.

			
Daniëlle Pitcock, Vice-Chair	Date	Paula Friebertshauser, Secretary	Date