

# Board of Zoning Appeals Munson Township

Minutes of November 18, 2020

Chair Dennis Pilawa called the meeting to order at 6:34pm with Danielle Pitcock, Gabe Kezdi, Joe Tomaric, Jim O'Neill, Secretary Paula Friebertshauser and Court Reporter Nick Glatzhofer present. Alternate Tim Kearns was also present. Don Alexander was absent. The Pledge of Allegiance was said.

Mr. Pilawa explained the role of the Board of Zoning Appeals is to apply certain principles of law as required by the Ohio Supreme Court. He explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. The Board interprets the Zoning Resolution specifically on what is brought before them. 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. The Board does not accept any evidence that is not protected by the cross-examination process. If a case goes to court, decisions are based on what is presented the evening of the hearing. A court would determine whether the Board properly applied the standards to be considered. Anyone 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.

Danielle Pitcock moved and Joe Tomaric seconded to approve the minutes of October 21, 2020 as written. Upon the roll call, all members voted yes, motion carried 5-0.

**CASE 20-18: William & Megan Speirs** 12900 Walden Oaks Chardon OH – requesting to put up a fence 6 feet in height in the front yard. Violates 509.5(c) – (in part) Fences and walls shall be a maximum of four (4) feet in height in any front yard.

Mr. Pilawa read the variance request and violation. Zoning Inspector Jim Herringshaw was sworn in. He explained photos that showed the area to be fenced and referenced the neighboring property that has a home under construction. Mr. Tomaric asked Mr. Herringshaw where the property line was in relation to the pine trees. Mr. Speirs commented the fence would pretty much follow the pine trees; he approached the table and pointed it out to Mr. Tomaric. Mr. Tomaric asked which side of the fence the pine trees would be on. Mr. Speirs responded they would be to the right of the property line on his side. He would not have to cut any trees down, just limbs. Mr. Tomaric expressed concern for the neighboring property in that the fence would be in front of their home. Mr. Speirs explained the pines run along the property line and he can see the new home from his house. Mr. Speirs felt the variance was a reasonable request. He has been deployed four out of the last seven years and with his wife being alone she is getting two dogs. Deer cross over their yard continuously and a fence would help dissuade the dogs from chasing and entering the neighbor's yard. The neighbors have a newborn and their own dog and a fence would help avoid any risk there. Mr. Speirs explained that the other issue is privacy. The neighbors have a large lot but decided to put the home closer to their property line (40'). He pointed out there are several parcels on Bean Road that have similar fencing.

Mr. O'Neill asked about the fence style. Mr. Speirs responded it would probably be a dog-eared cedar fence. Mr. Tomaric asked if he would consider starting at the tree line instead of closer to the right-of-way. Mr. Speirs said he would like it to start from the pillars at the crest instead of all the way to the front. He said it would not impede the roadway visually.

Mr. Pilawa summarized that the appellant could have a four foot fence and that his reasons for wanting two feet more are safety and privacy. Mr. Speirs added that nearby fencing sets precedence. Mr. Pilawa explained that each case rises and falls on its own merit. He looks at what the appellant is permitted to do and what the appellant is asking and analyzes from there. In this case, the Board is considering a two foot difference.

Mr. Kezdi asked if he were planning on having two sections. Mr. Speir responded yes, and explained that closer to the garage is a large mound that does not need a fence; he would probably need eight more panels towards the back.

Mr. Pilawa stated there were 36 affected property owners notified in the case. There was no public comment. Mr. Speirs respectfully requested approval.

Danielle Pitcock moved and Gabe Kezdi seconded to approve the variance requested in Case 20-18. Mr. Pilawa informed Mr. Speirs that there are factors or principles of law to be applied with no single factor more important than the other. Provision of the factors following the motion included: the variance is not substantial; there is testimony that there are similar fences in close proximity; the essential character of the neighborhood would not be affected; adjoining properties would not suffer a detriment as no one is present to oppose; the delivery of government services would not be affected, and the appellant's concern for safety was noted if the fence does not stretch to the roadway; the predicament could be feasibly relieved through some other method though the Board does not know what that would be; the spirit and intent behind the zoning would observed and substantial justice done by granting the variance; and the property owner did not know of the zoning restriction upon purchasing the property. Upon the roll call, members voted as follows: Gabe Kezdi, yes; Joe Tomaric, no; Danielle Pitcock, yes; Jim O'Neill, yes; and Dennis Pilawa, yes. Motion carried 4-1.

The meeting was adjourned at 6:57pm.

	
<u>Dennis Pilawa, Chair</u>	<u>Paula Friebertshauser, Secretary</u>
Date	Date