

# Board of Zoning Appeals Munson Township

Minutes of November 20, 2024

Chair Dennis Pilawa called the meeting to order at 6:30pm with Danielle Konrad, Don Ondrejka, Jim O'Neill, Joe Tomaric, Alternates Roger Simpson and Carol Maver, and Secretary Paula Friebertshauser present. Court Reporter Laura Ware was present. The Pledge of Allegiance was said.

Chair Pilawa explained that the cases that night were area variances and there are legal standards the Board uses to find "practical difficulties." The Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. 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 file with the Court of Common Pleas within 30 days after the minutes of the meeting are approved.

Don Ondrejka moved and Joe Tomaric seconded to approve the minutes of October 16, 2024, as written. Motion carried, 5-0.

**CASE 24-23: Scott Baker**, 12165 Fowlers Mill Rd., Chardon OH – requests to construct a 24' x 36' detached garage 20' from the right (south) side lot line. Violates SEC. 411 Minimum Dimensional Requirements – minimum side yard is 25'.

Chair Pilawa read the variance request and violation. Zoning Inspector Jim Herringshaw was sworn in. He pointed out the approximate location and commented that the building would be over 200 feet back. He then referred to photos taken from Fowlers Mill Road, the view of the south side yard, and the view of the proposed site.

Scott Baker was sworn in. He explained that with the size of the garage and its relation to the driveway, it puts it closer to the line. It could not be located to the north because of the lay of the land and driveway orientation. When asked what it would be used for, Mr. Baker responded it would be used as a garage and for storage of tools. It would have electricity and additional storage in the attic.

Mr. Tomaric asked where the septic and well were located. Mr. Baker said the septic is on the north side of the property closer to the evergreen trees. The well head is in front of the house and 30 feet west of the house. When asked, he said they have lived there three years.

Chair Pilawa stated for the record that there were 12 affected property owners notified in Case 24-23. There was no public comment.

Chair Pilawa asked Zoning Inspector Herringshaw if he felt the variance was substantial. He did not. Chair Pilawa proceeded to review the remaining factors: the essential character of the neighborhood would not be altered; evidence suggests that adjoining properties would not suffer a detriment; the variance would not adversely affect delivery of government services as the pictures do not show it

would be in the way of anything; and can the predicament be feasibly relieved through some method other than a variance – he supposed so but the Board does not have to give equal weight to them all. Whether the property owner purchased the property with knowledge of the zoning restriction the Board assumes everyone has access to the regulations. And will the spirit and intent behind the zoning be observed and substantial justice done by granting the variance – a lot of people think we must adhere to what is in the regulations, but the variance process is in the book to allow a variance request because everything could not possibly be accounted for. With respect to that factor, it seems this request would be an example of the spirit and intent of zoning.

Don Ondrejka moved and Joe Tomaric seconded to accept the variance applications for Case 24-23 as written. Upon the roll call, all members voted yes, 5-0. Motion carried.

**CASE 24-24: Mark Price, 11633 Lake Rd., Chardon OH** – request to construct a garage addition 9' from the north/right side property line and approx. 25' from the road right-of-way. Violates SEC. 411 Minimum Dimensional Requirements – minimum side yard is 25' and minimum setback from the road right-of-way is 80'.

Chair Pilawa read the variance request and violation. Zoning Inspector Herringshaw referred to the site plan and pointed out the 25-foot front setback and the 9-foot side yard setback. He presented photos taken of the proposed site of the garage addition; view from the neighboring property to the south; view towards Lake Road; and views to the north and south. He mentioned that just down the road there were several variances granted for buildings being too close to lot lines. Chair Pilawa commented that it is the basic Bass Lake community situation.

Mark Price was sworn in. He explained there is limited opportunity to spread out and with snow a garage would be nice. There is a well in front so he needed to push it over. When asked, Mr. Price confirmed the structure would be used for storage and as a garage.

Ferenc Jaczo of Mantua was sworn in. As the builder, he confirmed it would be a two-car garage with a bedroom above. He is keeping the profile low for a cabin-type feel.

Mr. Price explained that this cottage is back a bit from the others. He has owned it since 1993. He did talk with the property owner who owns homes on both sides and Todd Petersen.

Mr. Tomaric asked if the main entrance was through the garage. Mr. Jaczo responded it is through the side where the sidewalk is along the garage.

Chair Pilawa stated for the record that there were six affected property owners notified in Case 24-24. There was no public comment.

Danielle Konrad moved and Don Ondrejka seconded to approve the variance in Case 24-24 as requested. Discussion of the Duncan factors were as follows: of course there is a beneficial use to the property as a residence – there generally is; the variance is not substantial; the essential character of the neighborhood would not be altered by the garage; six affected property owners had the opportunity to appear and did not; the delivery of government services would not be adversely

affected; it cannot be feasibly relieved through some other method than a variance; the spirit and intent would be observed and substantial justice done by granting the variance as the neighborhood has thrived in building there; and the Board assumes the property was taken with knowledge of the zoning. Upon the roll call, all members voted yes, 5-0. Motion carried.

The meeting was adjourned at 7:03pm.

			
Dennis Pilawa, Chair	Date	Paula Friebertshauser, Secretary	Date