

Board of Zoning Appeals

Munson Township

Minutes of December 19, 2019

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

Don Alexander moved and Jim O'Neill seconded to accept the minutes of November 21, 2019 as written. Motion carried, 3-0.

Mr. Pilawa 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. 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.

CASE 19-24: Robert Steinberg 9750 Sylvanhurst, Chesterland OH – requesting to keep an existing accessory building 16' from the west side property line while also requesting to replace it with a detached garage 5' from the west property line sometime in the future. Violates SEC. 411 Minimum Dimensional Requirements-minimum side yard is 25'.

Mr. Pilawa read the variance request and violation. He stated for the record that he was an attorney for the Beaver Creek Association. They have their own private water system and he represented Mr. Steinberg who headed up the Association. He offered to recuse himself if anyone thought he should do so. There was no opposition.

Zoning Inspector Jim Herringshaw was sworn in. He explained that Mr. Steinberg had put up a shed several years ago; he did not know he needed a zoning certificate until a property search for his neighbor showed the shed. He commented that Mr. Steinberg has a lot to store and needs a bigger building.

Robert Steinberg was sworn in. He explained that his neighbors had offered him a shed for free. He said he has more stuff and would eventually like to replace the current shed with a bigger garage and line it up with the driveway. Mr. Tomaric asked if it would be the left side of the driveway. Mr. Steinberg said it would.

Mr. Pilawa stated for the record there were 46 affected property owners notified in Case 19-24. David Krynski of 9714 Sylvanhurst was sworn in. He commented he can see the existing shed from his deck but has no problem with it. He mentioned that the other affected neighbor got a variance and Mr. Steinberg's shed would not affect them.

Jim O'Neill moved and Gabe Kezdi seconded that the variance requested in Case 19-24 be approved. Discussion following the motion included: there are certain principles of law – factors for an area variance; no single factor is more important than the other. Based on testimony heard there is a beneficial use, but the variance is not substantial; the essential character of the neighborhood will not be altered; and not only will adjoining properties not suffer a detriment the only person to appear is in favor; the delivery of government service; there is no testimony or no concerns; the predicament cannot be feasibly relieved; and evidence shows that the spirit and intent behind the zoning would be upheld. Upon the roll call, members voted unanimously in favor; motion carried, 5-0.

It was agreed that the following two cases, Case 19-25 and Case 19-26 would be heard together for the Sisters of Notre Dame. Mr. Pilawa read the variance requests and relative violations.

CASE 19-25: Sister Debra Doig for Sisters of Notre Dame 13000 Auburn Rd., Chardon OH – requesting two 102 sq. ft. ground signs 9'7" in height for the main entrance on Auburn Road; a ground sign at the entrance off Butternut 12'9" in height, two 72 sq. ft. wall signs and a 44 sq. ft. ground sign with a height of 8'2" for the high school and three ground signs (Sisters of Notre Dame Center, Bethany Retreat Center, Fine Arts Center) each 34 sq. ft. and 7' in height. Violates SEC. 1003.5 Signs Permitted in the Commercial, Industrial, Institutional and Medical Use Zoning Districts (in part) a. each commercial, industrial, institutional or medical complex may be permitted the following signs on the premises: 1. One (1) wall sign per business entity which shall have a maximum area of forty (40) square feet, and 2. One (1) ground sign, which shall have a maximum area of twenty (20) square feet per sign face and shall be no higher than six (6) feet as defined in Section 1003.2.

CASE 19-26: Sister Debra Doig for Sisters of Notre Dame 13100 Auburn Rd., Chardon OH – requesting a 73 sq. ft. ground sign with a height of 9'6". Violates SEC. 1003.5 Signs Permitted in the Commercial, Industrial, Institutional and Medical Use Zoning Districts (in part) a. each commercial, industrial, institutional or medical complex may be permitted the following signs on the premises: 2. One (1) ground sign, which shall have a maximum area of twenty (20) square feet per sign face and shall be no higher than six (6) feet as defined in Section 1003.2.

Zoning Inspector Jim Herringshaw commented that the one variance is for the Village for senior living. He explained they have a branding initiative for the whole campus. They are requesting to replace the old signs with consistent signage. The majority of the request is for internal signage; for the High School area which they might not do right away. The reason for the variance for most the signs is the size; they are a little bigger than what is existing.

Mr. Alexander asked if the signs photographed in the board's packet are being removed. Mr. Herringshaw responded "yes." The Sisters of Notre Dame need to get permission from individual property owners for smaller signs.

It was asked if any of the signs were to be illuminated. Sister Debra responded that the two gateway signs would be. Sister Debra Doig was sworn in. She reiterated that this is a branding initiative to include all properties and signage to be consistent. She explained Guide Studio is using the environment as a template. The signs will be rural in nature, and understated using wood, stone and brown tones. The internal campus signs will be the reverse of what they are now – blue background with white lettering.

Michael Bates, President of Notre Dame Schools, was sworn in. He commented that it has been his experience how often people get lost. The sign was born of that interest – to direct people for sports, visitors of the Sisters and the Village. They wanted to make sure that with all the turns and approaches that it would be safe.

Mr. Pilawa stated for the record that there were 38 affected property owners notified in Case 19-25 and 42 in Case 19-26.

Bob Fill of 13166 Paddock Drive was sworn in. In regards to the lighting, he wanted to know if the lights would be angled up or down. Jamie Wilhelm of Guide Studio was sworn in. He explained the lighting would be projected on the sign some distance away at an angle to show on the sign face itself.

Mr. Fill commented that they live closer to the Village and wanted to know the reason for a bigger sign. It was said that it would just state that it was Notre Dame Village with no advertising. Mr. Fill wondered about the size in that there is no competition and what precedent would be set. Mr. Pilawa explained that each case rises and falls on its own merits. Mr. Fill asked if there was a reason that the Jennings Group was not mentioned. Sister Debra explained that they contract with the Jennings Group but the Sisters own the property. Mr. Pilawa added that the application is done in the owner's name of record. The Board takes things like signage and lighting seriously. They grant a property right that lasts forever.

Sister Debra commented that they want a separate entrance for the Village so they do not get traffic through Notre Dame.

Mr. Alexander commented that he thought the proposed sign is a nice upgrade.

Marie Fill of 13166 Paddock commented that their property has declined in value \$7000 since the Village has become their neighbor. She hoped the lighting would be tasteful. The lighting in the Village they thought would be old fashioned but it is not. She commented that the proposed signs seem tasteful but wondered why it is so big with no competition.

Mr. Pilawa commented that the community is used to the location, but when he coached for Notre Dame, they would host cross country events and one of the biggest problems was that people kept getting lost. With the speed limit at 45mph they just pass it. The speed is slower on Butternut, but on Auburn it is a different issue.

Mr. Pilawa asked Mr. Herringshaw about the previous variances. Most of the variances were withdrawn; and they took away one of the proposed residences. Mrs. Fill felt that issues that were addressed previously, but not under the Board's jurisdiction, did not come to fruition.

Sister Debra commented that even with the 45mph speed limit, people go much faster. It is a safety factor as well so people can see the sign at a distance. Mrs. Fill commented that its 2020 and people have GPS.

Jamie Wilhelm concurred that speed is exactly the reason why the size of the text was designed under national jurisdiction standards and is proportional. He explained that the signs on paper look large, but look accordingly and once installed will not appear as large.

Mr. Pilawa said lighting can adversely affect the property owners and change the essential character of the neighborhood.

Mr. Fill felt that since the Village was built, people know where it is, but the school is a different story because it is off the road.

Mr. Bates explained it is his 3rd year in his role and the first thing he saw is the school zone was not enforced; they installed solar lights and moved the preschool onto the campus. They no longer want to have just functional signs from the 50's. Mr. Tomaric asked if they are going to have to install poles. Sister Debra responded they have an existing pole and will bore under the road. She is hoping the same for the Village. Mr. O'Neill asked how the lighting will be controlled. Mr. Wilhelm responded they would discuss with the Sisters. The lighting could have a dimmer also to adjust the brightness. Mr. Bates added that they chose to not have an LED message board. Jamie Wilhelm explained that is why they chose not to have internally lit signs, but softer ambient lighting.

Joe Tomaric moved and Gabe Kezdi seconded that the variance requested in Case 19-25 be accepted as proposed. Discussion following the variance included: the design is nice and will add to the property; and they invested a lot of money to make it look good; the delivery of government services will be assisted in some respect and would not adversely be affected; it is a safety issue with the 45 mph; and the spirit and intent behind the zoning would be upheld and substantial justice done by granting the variance; and even though there is a beneficial use without a variance the Board does not think it is substantial. Upon the roll call, all members voted unanimously 5-0, motion carried.

Don Alexander moved and Jim O'Neill seconded that the variance requested in Case 19-26 be granted as written. The above discussion applied to Case 19-25 was deemed also relative to Case 19-26. Upon the roll call, all members voted unanimously 5-0, motion carried.

CASE 19-27: Rita Anselmo 11541 Wilbert, Chardon OH – requesting to erect a 10' x 16' accessory building 19' from the north side property line. Violates SEC. 411 Minimum Dimensional Requirements-minimum side yard requirement is 25'.

Mr. Pilawa read the variance request and violation. Mr. Herringshaw explained that they are asking for the building to be a little closer; originally they were going to put it at 25 feet. The neighbors came in recently for a variance.

Rita Marie Anselmo was sworn in. They would like to put a 10 foot x 16 foot building in. The existing shed had a limb from a rotting tree that fell through it. When asked, she confirmed she would not be operating a business. Construction would begin next year.

Mr. Pilawa stated for the record there were 68 affected property owners notified in Case 19-27. There was no public comment.

Mr. Kezdi asked if there would be any utilities. Mrs. Anselmo responded "no."

Don Alexander moved and Joe Tomaric seconded to grant the variance requested in Case 19-27 as submitted. Discussion following the motion included that it was a great application and met all the Duncan Factors. Upon the roll call, all members voted unanimously, 5-0. Motion carried.

The meeting was adjourned at 7:34pm.

	
<u>Dennis Pilawa, Chair</u>	<u>Paula Friebertshauser, Secretary</u>
<u>1/16/2020</u>	<u>1/16/20</u>
Date	Date