

# Board of Zoning Appeals

## Munson Township

Minutes of December 15, 2022

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

Those present were familiar with the Board of Zoning Appeals process so Mr. Pilawa just explained that if anyone felt the BZA acted improperly they could file an appeal with the Court of Common Pleas within 30 days of the approval of the evening's minutes.

Roger Simpson moved and Don Ondrejka seconded to approve the minutes of November 17, 2022, as noted. Motion carried, 5-0.

**Continued - CASE 22-18 AJ Petersen/Petersen Holdings** Parcel #21-090300 & 21-090400 Mayfield Road, Chardon OH - requests to operate a construction service with office and shop space; and store heavy equipment and trucks on the commercial portion of the property. Violates SEC. 407.2 Permitted Uses and Structures (in part) 18. Construction services, including offices, excluding heavy construction equipment.

Mr. Pilawa read the legal notice and violation. Zoning Inspector Jim Herringshaw was sworn in. He reminded the Board that the business is permitted, and the heavy equipment could be stored on the one-third to one-quarter acre of property that is zoned Industrial; but that Mr. Petersen wants the option to store the equipment on the Commercial portion.

AJ Petersen of 11580 Regent Park Drive was sworn in. Todd Petersen of Petersen & Petersen and a relative, was also sworn in. He said that after the last meeting they had met with Mr. Jurgens more than once. Sean Petersen of 11580 Regent Park was also sworn in. Dale Jurgens of 12252 Mayfield Road was sworn in. He reiterated that they met twice on the property. The land is already cleared, and he has no problem with what they are proposing to do.

Mr. Pilawa stated for the record that 13 affected property owners were notified in Case 22-18. Joyce A. Black of 11449 Chardon Road commented that she has not met with Mr. Petersen but had a fair understanding of what they are doing. She felt it would add to the community. When asked if anything was put in writing, Mr. Jurgens said no, but that Mr. Petersen wants to be a good neighbor.

Don Ondrejka moved and Jim O'Neill seconded that the variance requested in Case 22-18 be approved as written. Discussion of findings of fact were as follows: the hardship is a little unique with the back of the property being in the Industrial District; the zoning regulation does deprive the owner of a substantial property right because without it he could not potentially use the property to the extent needed; the property may possibly not be reasonably used in an economically viable manner due to

what he is projecting in the future; the proposed use is part in the Industrial and Commercial Districts and the only people present (affected property owners) agree with the request; the hardship is not self-induced – the property is zoned that way; regarding if the zoning regulation protects the public health, safety and morals because one-third of the property allows for the requested use this standard may not be applicable; the adjoining properties will not be harmed in any way and the affected property owners are in support of the request; and the property owner did know of the zoning restriction. Upon the roll call, all members voted yes, 5-0, motion carried.

**CASE 22-19 Mark Mazzurco of M&I Properties Development Inc.** Parcel #21-051563 Mayfield Road, Chardon OH – requests to install a driveway 0 feet from the east side property line and 6 feet from the west side property line. Violates SEC. 511 (in part) Driveways shall be a minimum of 15 feet from any lot line.

Mark Mazzurco, appellant for Case 22-19, requested a continuance until January 2023 through BZA Secretary Paula Friebertshauser because he was unable to attend the meeting. Dennis Pilawa moved and Joe Tomaric seconded to grant a continuance for Case 22-19 if the \$100 continuance fee is paid prior to the meeting. Upon the roll call, all were in favor, 5-0, motion carried.

**CASE 22-20 Dale Jurgens** 12252 Mayfield Road, Chardon OH – requests to keep an existing 1,120 sq. ft. manufactured home (also used as an accessory building for security purposes); 13' from the east side property line and 3' from the principal structure. Violates SEC. 411 Minimum Dimensional Requirements – minimum square footage for a one-story residence is 1,600 sq. ft. and minimum side yard requirement is 20'. SEC. 509.3 (in part) Accessory structures shall not be closer than 15' to the principal structure.

**CASE 22-21 Dale Jurgens 12252 Mayfield Road,** Chardon OH – requests to keep and continue to use an existing manufactured home as a residence on the Commercial District portion of the property as they have done for over 3 years. Violates SEC. 407 Commercial District (in part) living in a manufactured home is not a permitted use in the Commercial District.

It was agreed that the two cases for Dale Jurgens would be heard together. Mr. Pilawa read the variance requests and violations. Zoning Inspector Herringshaw explained that the home cannot be seen from the road because the building is 330 feet back. The awareness of the home did not come about until the last appeals meeting when Mr. Jurgens mentioned that he resided there. Mr. Herringshaw commented there are residential homes in the area. Mr. Jurgens was granted a variance to build manufactured homes back in the early 2000's. Manufactured homes are permitted in the Residential District. His home does conform to some of the specifications already. He also needs an area variance because it is too close to the lot line and the principal structure. Mr. Pilawa confirmed with Mr. Herringshaw that the prior variance was granted. Mr. Jurgens interjected that the variance is good as long as he owns the property. Mr. Pilawa explained that the variance goes with the property. It is a property right that is conferred forever. Mr. Herringshaw showed photos and said that Mr. Jurgens has already put siding on part of the structure.

Regarding septic, Mr. Jurgens explained they were inspected by the EPA this summer. It is \$80 for a commercial business, and he had a thorough inspection. He made sure the home was 35 feet away and

noted the number of bedrooms. It is a massive system. He assumed it wasn't an issue. He explained that they manufactured homes and hoped to sell them, but mostly received phone calls on how to build them. He has been a resident for 25 years and lived on Ravenna Road previously. He has been in business 40 years and originally started in Chagrin Falls. He built trailers and experienced a lot of theft. The Sheriff's department advised him that it could affect his insurance. He cabled and padlocked the trailers together and the thieves cut the cables. He had three top trailers stolen in one night. The insurance company sent a letter of cancellation. Alvords Lawn & Garden and Geauga Muffler had their cash registers stolen. The insurance company sent an assessor out. They suggested putting up a 6-foot fence with razor wire that would go into the woods and a padlocked gate. He ended up putting a trench and bought 35 large concrete barriers and a Suburban to block the driveway which was okayed by the insurance company. The problem was that customers did not want to leave their vehicles by the road. His wife suggested selling their home on Ravenna and building a manufactured home on the property. They had cameras, but if they are not manned 24 hours and license plate numbers are not recorded, they do no good. It was hurting their business. They have motion detection cameras and have caught thieves three times. Mr. Jurgens pointed out that from Bass Lake Road to Route 44 there are nine houses on commercial property. Mr. Herringshaw pointed out that they are grandfathered in. Mr. Jurgens distributed a spreadsheet of surrounding property owners that showed that 50% have had theft. Rosewood Diesel had vandalism. Mr. Pilawa explained he would make it part of the record as Mr. Jurgens swore he contacted all the property owners, but they could not accept it as testimony from those that were not opposed. Mr. Jurgens said he had talked with Ed Babcock who owns the property next-door, and he had no problem. He also had the Fire Department do a walk through. He spoke with the Geauga County building inspector (Dan) and he said once the variances are obtained, he would come out, but he did say from the description of the issue, there most likely would not be a problem. Mr. Jurgens said that if he can't stay, he would need to put up a fence. He had called Munson Storage to get an idea of the cost and it was \$48,000 for the fencing and another \$21,000 for a gate. Mr. Jurgens apologized and said he did not know he did anything wrong.

Mr. Tomaric asked why he didn't follow the offsets. Mr. Jurgens responded that he built the home for a model. Then when they weren't selling his wife said let's move because they could not afford 24-hour security. Mr. Pilawa confirmed that he and his wife have lived there for three years. Mr. Jurgens concurred and added that it was built long ago. He had two other businesses – Shelf Above and DLMR Trailer Sales. He had an agreement with the landowner next door, and he cut down trees and parked his trailers all the way down the front.

Mr. Pilawa stated for the record that 13 affected property owners were notified of Cases 22-20 and 22-21. Joyce Black commented that Dale and his wife have been wonderful neighbors and keep their property pristine. He also made a difference in one of her patient's lives – they are safety for her place as well.

AJ Petersen said he is not opposed, and it makes sense to have additional safety and they want to be good neighbors. Holly Petersen asked if the variances were granted, does the home stay with the property even if he moves out. Mr. Pilawa responded yes.

Don Ondrejka moved and Joe Tomaric seconded that the variance requested in Case 22-20 to keep an existing 1,120 sq. ft. manufactured home 13 feet from the east side property line and three feet from

the principal structure. Discussion of the findings of fact (Duncan Factors) included that the essential character of the neighborhood would not be altered; adjoining properties would not suffer a detriment; the delivery of government services would not be adversely affected; and there is a lot of testimony that it can't be feasibly relieved through some other method; the spirit and intent behind the zoning would be observed and substantial justice done by granting the variance; it would be hard for him to say that he didn't know of the zoning restrictions; it would not be substantial; and can there be a beneficial use, yes, but it doesn't seem to be much of an impediment to the variance request and the Board does not have to give equal or any weight to all the factors. Upon the roll call, all members voted yes, 5-0, motion carried.

Don Ondrejka moved and Joe Tomaric seconded to approve the variance requested in Case 22-21 as written. Different standards are applied to a use variance. The discussion following the motion included that the hardship is unique to the property; the hardship is not self-induced and compares to nearby uses; the Board has testimony that the variance requested might add to the public health, safety and morals; adjoining properties would not be harmed; and in view of the presented chart and evidence presented, whether the property can be used in an economically viable manner without a variance is not significant. Upon the roll call, all members voted yes, 5-0, motion carried.

The meeting was adjourned at 7:34pm.

	<u>1/18/23</u>		<u>1/18/23</u>
Dennis Pilawa, Chair	Date	Paula Friebertshausen, Secretary	Date