

Board of Zoning Appeals

Munson Township

Minutes of February 17, 2011

Chair Bobbie Nolan called the meeting to order at 6:30pm. Don Alexander, Lonny Beck, Sophie Horvath, Lucy Longo, Richard Wright, and Secretary Paula Friebertshauser were present. Gabe Kezdi was absent. Court Reporter Kim Geil was present to record the minutes. The Pledge of Allegiance was said.

Ms. Nolan explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. They take facts as presented and apply 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. Anyone not in agreement with the decision of the Board could take the case to the Court of Common Pleas within 30 days after the minutes of the meeting are approved.

CASE 11-01: LLGC, LLC, 11135 Auburn Rd, Chardon OH- request a conditional use permit due to change in ownership. Violates SEC 803.9 Change of Ownership-The conditional use as a golfing facility shall be void upon change of ownership or lease unless a new application is made for such a certificate within fifteen (15) days after change of ownership or lease.

Tim Kearns, Zoning Inspector, was sworn in. He read the variance request and violation. Todd Petersen, attorney representing LLGC, was sworn in. He presented a map of the entire Legend Lake property. Mr. Petersen stated he is simply the attorney for LLGC hired by the Brkic family who purchased the golf course. He is not involved in the ownership, although the Brkic's are half owners of Fowlers Mill Golf Course. He introduced Jim Jevnikar who has been with Legend Lakes for five years, and mentioned that Mark Douglas, the maintenance supervisor, has also been kept on. The owner's intention is to keep Legend Lake as a private golf club. The membership is down and there is need for capital improvements. Mr. Petersen pointed out that Mrs. Alexander still owns the house. When asked about combining all the parcels, Mr. Petersen said he will be meeting with Scott Yamamoto from the Auditor's office to discuss the matter. Mr. Petersen also informed those present that Legend Lake has been a golf course for 44 years. Reece Alexander was the first pro to win on tour and the first to build his own golf course.

Ms. Nolan asked those present if anyone would like to come up to the table and look at the map presented by Mr. Petersen. Mr. Janu and Mrs. Semenik approached the table.

Ms. Nolan stated for the record that 81 affected property owners were notified in Case 11-02. Ms. Semenik was sworn in and questioned if there was a liquor license. Mr. Petersen responded that it will transfer to the new owners, but there is a separate application involved.

Robert Schnittger of 10922 Thwing Road asked if they were going to be changing any of the holes. Mr. Petersen explained there are a lot of things to be done first. They went to Mark Douglas, the maintenance supervisor, and asked him for a list of things he felt needed to be done. There are bridges, tree-trimming, and culvert pipes at the creek that all need to be improved to give it a better look. There is no capital at this time to redo holes.

Mrs. Semenik commented that there is a waterway that goes through the property and she wanted to make sure fertilization of the greens would not impact the water. Mr. Petersen responded that the same restrictions that apply at Fowlers Mill Golf Course apply to Legend Lake – it's all regulated by the EPA. Mr. Petersen added that the stream bank needs changes because it looks more like a ditch instead of a stream.

Sophie Horvath moved and Richard Wright seconded that the variance requested by Mr. Petersen in Case 11-01 be granted. Discussion included: Personally I think the use transfer and you coming to state your case is beneficial to the public and concerns of the property owners and future intent. It allays concerns and you provided your number so you can be reached at any time and that is greatly appreciated. Mr. Kearns wanted it on record that a change of ownership is a conditional use and the appellant has to return in five years. Upon the roll call, all members voted yes, motion carried, 5-0.

CASE 11-02: Fowlers Mill Christian Church, 10755 Mayfield Rd, Chardon OH – request to construct a 70 x 54 sq. ft. multi-purpose structure 72' from the west side property line and 10' from the rear property line with 142.32' of frontage on 1.88 acres. Violates SEC. 411 Minimum Dimensional Requirements (in the Commercial District) – minimum lot size is 2.5 acres; minimum frontage at road right-of-way is 200 ft.; minimum side yard is 100 ft. adjacent to residential area; minimum rear yard is 50 ft. adjacent to residential area; and SEC. 503 Principal Structures per lot-no more than one principal structure may be constructed upon any one lot.

Don Alexander replaced Lonny Beck to serve on this case because Mr. Beck's father is the architect for the project. Mr. Kearns read the variance request and violations. He explained the site plan, pointing out the building to be replaced.

Mike Royle of 11625 Lake Road spoke on the church's behalf. He explained the existing building has fallen in disrepair and is unable to be used. The building is needed for vacation bible school, Sunday school, Boy Scout meetings, etc. If they don't build it, the church could lose its longevity. The congregation is aging and they need to attract younger families. Mr. Royle explained the building will be less intrusive on the setbacks. It will be turned away from the most affected property which is owned by the Grossman's. When asked, Mr. Royle said they didn't know who will do the construction yet, but it will have heat and a bathroom.

Ms. Nolan stated for the record that 30 affected property owners were notified in Case 11-02.

Chris Grossman of 12233 Claridon-Troy Road was sworn in. He was present to represent his father, Art Grossman who owns the adjacent property. He stated they are not against the building, and felt anything would be an improvement. He asked if there was a recent survey because at one point the existing building was shown on their property. His second concern was the rear property line because their commercial septic line hooks right around behind the existing building. They want to make sure the septic line is not disturbed. Mr. Royle responded that he has seen different survey drawings as well, and the only thing he knows is they will be moving further away with the new building. He added that no machinery will be coming from behind.

Ms. Nolan asked if the lavatory facilities and water in the building will tie in with the existing system. Mr. Royle said no, Chip Hess, a local engineer, will have a concept plan for a new septic system for the

whole property. Mr. Kearns showed where the new septic would be because he had a copy of the plan from Mr. Hess. Chris Grossman approached the table and showed where their property is.

Richard Wright moved and Lucy Longo seconded that the variance requested in Case 11-02, Fowlers Mill Christian Church, that the request as presented be approved. Discussion included: due to the age of the building, and the fact that it appears that definitely these two structures as well as a lot of other points there, predate zoning, the request for changing the building around, which obviously over the years since 18-something has been effective without damage, inconvenience and other related problems to either the people that utilize it and/or the neighbors, it appears, the fact that the zoning has interceded should not deprive the owners of the use that they're seeking since they've demonstrated that it's worked out very well historically. The property could be used; however a case has been made as to why it's not desirable to not have the building with the membership issue that was presented. This hardship is self-induced because the building is there, but people in charge have deemed that it's insufficient for the needs going forward and that's understandable. The zoning regulations that now stand are for the protection of people and it shows good judgment that what's being presented is in line with what's necessary and it very much appears that with the adjoining properties, extra consideration is being taken and will not be harmed. And we can't say that the property was purchased with knowledge of the zoning at the time it was purchased. Upon the roll being called, all members voted yes, motion carried 5-0.

Don Alexander moved and Sophie Horvath seconded to approve the January 13, 2011 minutes. Motion carried.

The next meeting is scheduled for March 24, 2011 at 6:30pm.

Ms. Nolan mentioned that Ron Atkinson, Chair of the Zoning Commission, had called her and wanted to know if the Board would want to meet with them. Members agreed to a meeting. Ms. Nolan will contact Mr. Atkinson.

The meeting was adjourned at 7:25pm.

Bobbie Nolan, Chair

Paula Friebertshauser, Secretary