

Board of Zoning Appeals

Munson Township

Minutes of February 17, 2021

Chair Dennis Pilawa called the meeting to order at 6:30pm with Jim O'Neill, Joe Tomaric, Danielle Pitcock, Alternate Gabe Kezdi and Secretary Paula Friebertshauser present. Don Alexander was absent. Court Reporter Laura Ware was also present. 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. The Board has limited authority and cannot change the zoning, but there is a provision in the zoning resolution for variances. He 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.

Joe Tomaric moved and Jim O'Neill seconded to approve the minutes of January 20, 2021 as written. Motion carried, 4-0.

CASE 21-02: Drew Krage 10891 Mayfield Road, Chardon OH – requests to operate a landscaping business in a residential district while residing there and a (future) ground sign. Violates SEC. 401.2 Permitted Uses and Structures-operating a landscaping business (commercial use) is not a permitted use in the Residential District; and SEC. 1004.9 (in part) no sign shall be placed anywhere in a residential district that is permitted in a commercial district.

Chair Pilawa read the variance request and violations. Zoning Inspector Jim Herringshaw was sworn in. He showed an area map delineating the Commercial District and a nearby commercial use. Mary Samide of SOS had received a use variance in 1990 to have a residence and run her consulting business. He explained photographs he had taken looking east and straight through to the back showing the accessory building and house. He commented that the buildings can barely be seen from the road and towards Millview Lane. Mr. Herringshaw is a Millview Lane resident and affected property owner.

Drew Krage was sworn in. He introduced his wife Gabrielle. He explained they own a landscaping business and currently live on a two-acre parcel in Chardon. It is hard to do what they do on that size parcel. He reached out to many of the affected property owners and explained they would like to keep the property in the current setting without a lot of changes. There are over 10 acres and woods in the back. He explained they would put wild flowers towards the front where it is already cleared. Their business works in phases: installation, grounds maintenance, and lawn maintenance. They work on large estates doing high-end gardening; predominately plants, soil, mulch and drainage. They would

like to have a larger greenhouse, maybe two, than the 13 foot one they have now. The property has a building there already where they could fix their trucks and keep them under roof. The business usually operates eight months out of the year into December. They then do design work, contract and take care of tropical plants. They do cutting flowers, and vegetable gardens. He mentioned that .85 acres of driveway would be added which would allow a dumpster truck and delivery vehicles to turn around. He also keeps bees and would like to have an apiary. They give honey away to clients and sell some at Ransome Sage Farm. They also raise Dahlias. They have had to rent containers because they do not have enough room. Mr. Krage submitted pictures of how they keep their current property and provided drawings of examples of their work and photos of jobs. He referenced the letter of intent which described a sample of a typical day – crews are usually out by 8am and back by 3-4:00pm.

Gabrielle Krage was sworn in. She explained they want to live where they operate the greenhouses because if the power goes out they need to be there for the tropical plants, bananas, etc.

Chair Pilawa verified that the purchase of the property is contingent on the variance being approved. He asked how many employees they have. Mr. Krage responded there are 22 for a mowing crew and an install crew depending on what jobs they have going. They do not sell to the public and would only have deliveries coming in. They do not plan to put a stand out.

Chair Pilawa asked why they were asking for a sign. Mr. Krage explained they don't really want to have people coming back there, but thought it might be nice to have one there at some point and figured he would include it in this request. After three years, they could move into a CAUV - with the honey and they grow plants for them. They would be selling enough to qualify. Chair Pilawa commented that the property is across from the Township Park and across from Millview Lane is commercial.

Chair Pilawa stated for the record that 49 affected property owners were notified in Case 21-02. Jim Scialano of 12625 Millview Lane lives on the property just west and had no objection to the proposal. He bought his property a year ago. Chair Pilawa asked if being surrounded by commercial property has affected him in any way. Mr. Scialano responded "no."

Joseph Klukan of 13550 Butternut currently owns the property Mr. Krage is proposing to buy. He has known them for a few years and felt they are trustworthy and run an impeccable business. He had no intentions of selling; he likes to improve his properties and make the community nice. The surrounding commercial area has never bothered them. Mr. Klukan explained that his interest was sparked when he knew Mr. Krage was looking and could not find a property large enough for the infrastructure. There is a larger gas line and a complete generator on the property. They have made other improvements. He felt the area would be lucky to have them for neighbors.

Julie McElhaney of 12759 Millview Lane commented that her property is directly behind them. She has 10 acres and horses. She has spoken with Mr. Krage and is fine with the request and thought it would be a benefit to the community. She has lived there 11 years and the commercial area has had no effect on her. She could not see or hear anything from the Klukan property.

Mr. Tomaric questioned Mr. Herringshaw about the property being currently zoned residential and according to the drawing it would be mostly commercial. Mr. Herringshaw explained that it would not

become zoned commercial it would just be granted a commercial use. He referenced the variance given to Mary Samide as being the same thing.

Mr. Krage addressed those present from Millview Lane and said he planned to keep a 200 foot buffer of trees between the properties.

Chair Pilawa confirmed with Mr. Herringshaw that Mr. Krage knows that the sign has to conform to zoning.

Danielle Pitcock moved and Gabe Kezdi seconded to grant the variance requested in Case 21-02. Discussion following the motion included: a use variance is significant and requires proof of unnecessary hardship; it will not alter the essential character of the neighborhood, and in fact the adjoining property owners are welcoming it; the applicant did not create this problem; there is no evidence to affect delivery of services and could in fact provide better access; the property owner did have knowledge of the zoning restriction but came seeking the variance; there is no feasible way to relieve the situation; and the spirit and intent would be observed. Upon the roll call, all members voted yes, 5-0. Motion carried.

CASE 21-03: James Durst 12233 Woodiebrook Road, Chardon OH – requests to keep an existing 16' x 16' shed approximately 15' from the north side property line. Violates SEC. 411 Minimum Dimensional Requirements – minimum side yard setback is 25 feet.

Chair Pilawa read the variance request and violation. Zoning Inspector Herringshaw explained that he had received a tax search request and upon checking the address noticed there was a shed without a zoning certificate. The owner did not know they needed one. Mr. Herringshaw explained photographs taken from the road and looking north. Upon visiting the property, Mr. Herringshaw noticed an addition onto the back of the shed, but it did not make it any closer to the lot line.

James Durst was sworn in. He explained the home closes next week pending the variance approval. He is moving to Basswood. He purchased the home five years ago. It was abandoned and he has done many improvements to the house including siding, kitchen and bathrooms. He built the shed with the intention that it was temporary and would eventually become a garage, but he found another house they like better. The shed stores a lawn mower and tools. It has electric, but no heat or water. Mr. O'Neill clarified the homes sale is not contingent on this, but the shed would have to be moved or torn down if the variance was not approved.

Chair Pilawa stated for the record that 35 affected property owners were notified in Case 21-03.

Michelle May of 11575 Clay Street is the property manager for the parcel to the south of Mr. Durst. They have no problem with the request and felt he has done a good job with the property.

Danielle Pitcock moved and Jim O'Neill seconded to grant the variance in Case 21-03 as written. Chair Pilawa commented that it is much easier to ask forgiveness than permission. He provided the following discussion: the variance is not substantial; the essential character of the neighborhood would not be altered with the shed having been there five years and is welcomed; the delivery of government

services is not applicable, nor the feasibility; the spirit and intent would be observed and substantial justice done by granting the variance; and the property owner did not know of the zoning restriction. Upon the roll call, all members voted yes, 5-0. Motion carried.

The meeting was adjourned at 7:30pm.

Dennis Pilawa 3/3/21
Dennis Pilawa, Chair Date

Paula Friebertshauer 3/3/21
Paula Friebertshauer, Secretary Date