

Board of Zoning Appeals

Munson Township

Minutes of March 20, 2014

Chair Bobbie Nolan called the meeting to order at 6:32pm with Lucy Longo, Gabe Kezdi, Don Alexander, Richard Wright, Alternate Danielle Pitcock and Court Reporter Nayann Pazyniak present. Michael Waclawski was absent. The Pledge of Allegiance was said.

Richard Wright moved and Lucy Longo seconded to approve the minutes of February 20, 2014 as written. Motion carried.

Mrs. 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. 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 take the case to the Court of Common Pleas within 30 days after the minutes of the meeting are approved.

CASE 14-02: Mark Ventura for Payne & Payne Builders, 10762 Mayfield Rd., Chardon OH – Request to construct a two-story building with porch where a single-story building existed. Violates SEC. 704.1 – no such nonconforming structure may be enlarged, altered or reconstructed in a way which increases its nonconformity within the minimum dimensional requirements of Section 411. SEC. 411 – Minimum lot size is 2.5 acres (requesting .18 acres); Minimum Frontage at road right-of-way is 200 ft. (requesting 50.47 ft.); Minimum setback from road right-of-way is 80 ft. (requesting 24ft.); Minimum side yard is 20 ft. (requesting 6.9 ft. from the west side and 3 ft. from the east side).

Tim Kearns, Zoning Inspector, was sworn in. He read the variance request and violations and presented photos of the existing building.

Mark Ventura was sworn in. He explained they would like to remove the existing building and replace it with a design center in the same footprint. They believe it will improve the property. The proposed building would be two-stories with a basement and have a porch facing their property to the west. When asked if any of the old structure would be used, Mr. Ventura replied no, because they are adding a basement. Mr. Kezdi asked about the parking spaces in the front of the structure and if they would be removing the asphalt. Mr. Ventura said they had no plans to remove the asphalt and have parking in the rear accessed from their property next door. Mr. Wright asked if the building would be staffed. Mr. Ventura replied there would probably be four people in the building.

Mrs. Nolan asked Mr. Kearns if the variance granted before also took care of the parking spaces. Mr. Kearns replied yes, the parking spaces in the back. Mr. Kearns then advised the appellant to check with ODOT about parking in front because of the hill and close proximity to Mayfield Road. Mr. Ventura commented that based on the site plan, the parking would be in the rear.

Mrs. Longo commented that with the previous variance she thought that it was said there would be landscaping in the front and no parking. Eric Payne was sworn in. He explained they would like to

maintain the parking in the front if allowed because they are now using the Brown Barn parking area for overflow.

Mrs. Longo then questioned the tall antennae in the picture. Mr. Payne said it is on the existing building and would be removed. When asked if the building were vacant, Mr. Payne said it has been vacant for five to six years, and it would have been their preference to use the existing building. He went on to say it would have a historic look and fit in with the same character that exists in the nearby historic district.

Mrs. Nolan pointed out that the drawing shows most of the area for parking and asked what their plans are for wastewater treatment. Mr. Payne explained that the EPA has already approved a tank system underneath the parking area. The water is from an existing well.

Mr. Alexander asked if people coming in will have access to all three levels. Mr. Payne responded that they will have access to the first and second floors only; the basement will be for storage.

Mrs. Nolan stated for the record that 27 affected property owners were notified. There was no public comment.

Richard Wright moved and Gabe Kezdi seconded that the variance in Case 14-02 as presented by Mark Ventura we approve the request as stated. Discussion following the motion included: there can be and has been a beneficial use although the building is not desirable, but in its current state it could be used for storage; the variance is substantial due to the property and what is on it; the essential character of the neighborhood will be improved; adjoining properties will have an improvement to look at; the delivery of government services will not be affected because it is close to the road; the predicament cannot be feasibly relieved through some other method than a variance; the spirit and intent behind the zoning would be observed; and the property owner did not know of the zoning restrictions. Upon the roll call, all members voted yes, 5-0, motion carried.

CASE 14-03: Lisa Callahan, 11950 Epping Trail, Chardon, OH – request to construct a 28 x 40 sq. ft. garage that will extend 15 ft. in front of the principal structure. Violates SEC. 509.2 No garage or other accessory structure shall be erected within the front yard of any district.

Mr. Kearns read the variance request and violation. Lisa Callahan was sworn in. She explained they would like to construct a 28 x 40 square foot garage, and in order to avoid their septic fields a corner would extend 15 feet closer to the road. They are 140 feet from the street. Mr. Kezdi verified that they are on the cul-de-sac so it would not stand out much. Mr. Wright asked if there was enough room to go back further. Mrs. Callahan responded they would like to use the existing driveway and not have to pour additional asphalt, and the grade of the property slopes off. If they moved back they would have to excavate more. When asked, she explained the garage would have a cement base and would store cars and have a workbench. The upstairs would be used for storage. She approached the table and showed a drawing of the proposed structure.

Mr. Wright asked if there would be a bathroom or living quarters. Mrs. Callahan responded no, there would be no plumbing. When asked, Mrs. Callahan confirmed that the garage doors would not face the street, but the dormer would.

Pat Callahan was sworn in to respond to a question regarding head room on the second floor. He explained the first floor would have be 9 feet high; the second floor would be 13 feet high at the peak;

the dormer 8 feet and the sides approximately 5 feet. He went on to say that he has tried to figure out the exact location of the septic field because they are trying to retain a buffer.

Mr. Alexander noticed that on the existing site plan it showed a different size building. Mrs. Callahan explained that the previous owners had drawn up a plan but it was never facilitated. Mr. Callahan added that he has approval from Jerry Petersen, the developer.


Mrs. Nolan stated for the record that 24 affected property owners were notified in Case 14-03. There was no public comment. Mrs. Nolan also let the Board know that two letters were submitted but were not admissible as evidence because they cannot be cross-examined. One letter was for the variance, one against. Members did not wish to see them at that time.

Don Alexander moved and Lucy Longo seconded to approve the variance requested in Case 14-03. Discussion following the motion included: there is a beneficial use as a residence; the variance is not substantial; the essential character of the neighborhood would not be altered with the design of the structure; adjoining properties would not be affected due to the construction and look of the building; the delivery of government services would not be affected; the predicament cannot be feasibly relieved through some other method; the spirit and intent behind the zoning would be observed and upheld; and the property owner did not know of the zoning. Upon the roll call, all members voted yes, 5-0, motion carried.

Richard Wright moved and Lucy Longo seconded to approve the Findings of Fact for Case 14-01. The meeting was adjourned at 7:05pm.



Bobbie Nolan, Chair



Paula Friebertshauser, Secretary