

# Board of Zoning Appeals

## Munson Township

Minutes of February 19, 2015

Vice-Chair Richard Wright called the meeting to order at 6:30pm with Gabe Kezdi, Don Alexander, Alternates Danielle Pitcock and Michael Waclawski, Secretary Paula Friebertshauser, Zoning Inspector Tim Kearns, and Court Reporter Kim Giel present. Bobbie Nolan and Lucy Longo were absent. The Pledge of Allegiance was said.

Don Alexander moved and Gabe Kezdi seconded to approve the minutes of January 15, 2015 as written. Motion carried.

Don Alexander moved and Gabe Kezdi seconded to approve the findings of fact for Case 14-16. Motion carried.

Mr. Wright spoke to Carl Rappaport, appellant for Case 14-17, and commented that he was given a 30-day continuance at the January meeting. Mr. Rappaport explained he could not refile because there was a scheduling conflict. The Board did not have a problem granting another continuance. Don Alexander moved and Gabe Kezdi seconded to grant a 30-day continuance for Case 14-17 with a \$100 continuance fee. Motion carried.

Mr. Wright 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 15-01: Donald Ross, 11187 Wilson Mills Rd., Chardon OH – request to construct a 36' x 36' accessory building 8 feet from the principal structure. Violates SEC. 509.3 Accessory structures shall not be closer than 15 feet to the principal structure.**

Zoning Inspector Tim Kearns was sworn in. He read the variance request and violation.

Donald Ross was sworn in. He explained that the proposed location was the only option allowing 8 feet on either side between the house and the pond. When asked about the purpose for the storage building, Mr. Ross explained he would like to clean up the property by storing a truck and boat that are sitting in the yard. In addition, the house was built in the 70's and there are small closets. They would like to move stuff out of the basement and need extra storage for toys. It would have a cement foundation. Mr. Wright asked if there would be electricity or running water. Mr. Ross replied that there would just be electric for heat and air conditioning. Mr. Wright then asked about the probability of emergency services being able to access the rear of the home. Mr. Ross explained that he is a fireman

and they would never drive on the lawn because it would be too wet, they would pull a hose around instead. He also added that if the structure were to be attached to the home access to the back would be worse.

Mr. Alexander asked where the well and septic were located. Mr. Ross showed the well on the site plan and explained that when he trenched for electric for the dock they did not find the septic.

Mr. Wright stated for the record that 44 affected property owners were notified in Case 15-01. There was no public comment.

Don Alexander moved and Michael Waclawski seconded that the variance requested in Case 15-01 be approved. Mr. Waclawski commented that it is very nice to have the pond with the fountain, but was concerned with a possible fire jumping from the structure to the home within the eight feet. He did think he would do a great job.

Nick Gullo of 11668 Auburn Road commented that he loves what Mr. Ross has done with the property and wondered if he considered having a pump out of the pond. Mr. Ross responded that he had considered it, but the water has to be sprayed somewhere and he did not want the yard damaged, He also did not think the adjacent property owned by the park would want it either.

Discussion relevant to the above motion included: there can be a beneficial use without the building even though they are cramped; the variance is substantial due to the nature of the zoning; the essential character of the neighborhood would be affected positively; adjoining properties would not suffer a detriment; and with explanation from a fireman, there would not be a problem with the delivery of government services; the predicament cannot be feasibly relieved through some other method; the spirit and intent behind the zoning I believe would be fair and reasonable; and the property owner did know of the zoning regulations. Upon the roll call, all members voted yes, 5-0, motion carried.

**CASE 15-02: Kevin Huryan/YellowLite for Jared LeMaster, 10705 Butternut Rd., Chesterland, OH – request to erect a 36' x 13' solar array to roof of residence and install a 50' x 13' ground-mounted solar array in front of residence. Violates SEC. 526.1b Freestanding Solar Energy Panels and/or Arrays shall not be located in front of a principal structure in a Residential District; SEC. 526.1f Freestanding Solar Energy Panels and/or Arrays shall have a ground installed, a storage battery, and/or a secured cover in place over each light gathering panel for safety reasons; SEC. 526.2 All freestanding Solar Energy Panels and/or Arrays shall be walled or fenced and said wall or fence shall: SEC. 526.2a Not be less than 4 feet in height; SEC. 526.2b Not be less than 4 feet nor more than 15 feet from the Solar Energy Panel and/or Array's edge; and SEC. 526.2c Maintained in good condition with a gate and lock; SEC. 527.3 All Roof Solar Panels shall have a ground installed, a storage battery, and/or a secured cover in place over each light gathering panel for safety reasons.**

Mr. Kearns read the variance request and violations. Mr. Waclawski asked him if there were any other systems in Munson like this one. Mr. Kearns responded "no".

Kevin Huryn was sworn in. He explained that the request is for two solar panels – one roof mounted solar array and one on the ground. Mr. Huryn asked Mr. Kearns if they needed a secured cover. Mr. Kearns said yes. Jared LeMaster was sworn in. He asked why a secured cover was needed. Mr. Huryn commented that if the array were covered, it would prevent it from getting sunlight.

Fida Aziz, Project Manager, was sworn in. He explained that when he read about the cover regulation, he interpreted it to mean the secure rails they have for hurricane protection. The covers are to keep them secure and the same for ground arrays. They adhere to the structure to make sure it is not going anywhere.

When asked about the storage battery, Mr. Aziz explained it is a hybrid system. Mr. Kearns commented to Mr. Huryn that he had said they were not having a battery. Mr. Aziz explained there is a grid system for the ground mount and the roof has a battery back-up inside the home itself. They meet all required standards.

Mr. Wright commented they are in compliance except for the fence. He referenced Sections 526.2 and 526.2a. Mr. Aziz said that could be amended. When asked about a secured cover again, Mr. Aziz explained there are fastener systems that go panel by panel but are not a cover – they have never used one. Mr. Kearns commented that he had spoken with the Zoning Commission in regards to the covers and their comment was that it is a safety concern. Mr. Aziz said he never had an experience with a request for a secured cover – it is all held within a frame.

Mr. Waclawski confirmed that the appellant has decided to amend to put a fence around the arrays. Mr. Aziz said they can if required. The arrays will be 7 ½ feet tall. When asked if there is a better location, Mr. Aziz said the location was chosen for optimal production – it is the best spot and is off to the side and sets back. Mr. Wright thought the area was very exposed. Mr. LeMaster explained that they do not want an eye sore, it's not in the front but well off to the side and there are some aspen trees. He has no problem with putting in a fence. He would like to have a row of pine trees on one side. When asked if the rear of the home would be an option, both Mr. Aziz and Mr. LeMaster responded no.

Mr. Wright asked what type of fence would be used. Mr. Aziz thought a chain link fence. Mr. LeMaster said he would probably put up a stained cedar fence. Mr. Aziz showed an example of a previous project and added that their design accounts for seasonal changes. He said they could possibly amend to tuck it back without being too close or too far from the property line. Mr. Waclawski pointed out that they are showing 50 feet off of the line. Mr. Aziz explained they create healthy margins when measuring. There is probably an 8 to 9 foot buffer in addition to what is required. When asked, Mr. Aziz said the panels would be angled south toward the home.

The Board recessed at 7:11pm and the meeting resumed at 7:25pm.

Mr. Waclawski commented that the system seems larger than he has seen. Mr. LeMaster explained it will fall around ½ of the electrical use – it will be a partial offset. They originally looked at doing the total, but scaled back for money reasons, and should recoup within 15 years. The system should last 30 years. Mr. Aziz explained he has done a 60 down to a 20 kilowatt survey for loads etc. 15 kilos is 16,500

kilowatt hours – 50% of the load. He corrected the recoup time to 13 ½ years with a full 25 year warranty. He clarified that the glass covering on the panel is the secured cover.

Mr. Wright commented there has been significant clarification and the appellant is in compliance with some and he did not think the Board had a problem with the roof array. However after some deliberation, the Board requested a continuance at no cost to the appellant. They would like to request clarification as to the exact location, fencing, size etc. in order to make a good decision. Mr. Aziz asked if they would like them to stake it off. Mr. Alexander explained that one plan says 50 feet, another does not and he would like an actual drawing of the location with a fence; and staking would be fine too. Mr. Aziz said he could bring a sample panel as well. Mr. Kezdi asked if it was made out of tempered glass. Mr. Huryn said it was shatter proof. Mr. Aziz added that it would shatter onto itself.

Mr. Wright asked Mr. Kearns if there was any concern with the Fire Department. Mr. Kearns said he could bring it up to them. Mr. Kearns said he would like to request that Mr. Aziz attend the meeting to refile.

Mr. LeMaster explained that for esthetic reasons he would want to plant shrubs for one side of the fencing keeping them at 4 ft. Mr. Waclawski asked about deer eating the wires. Mr. Aziz explained there would be no exposed wiring and no chance of electrocution – it is all properly grounded. The panels also do not get hot at all.

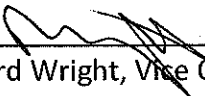
Mr. Wright stated for the record that 30 affected property owners were notified in Case 15-02. There was no public comment.

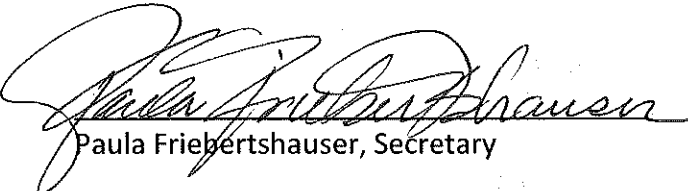
Mr. Wright confirmed with Mr. LeMaster that he was ok with the request for a continuance.

The meeting with Mr. Kearns was confirmed for Wednesday, February 25<sup>th</sup> at 9am. Mr. Kearns said he would like any of the Board members that could attend the meeting to do so.

Don Alexander moved and Michael Waclawski seconded to continue Case 15-02 with no cost to the appellant. Motion carried.

The meeting was adjourned at 7:40pm.

  
Richard Wright, Vice Chair

  
Paula Friebertshauser, Secretary