

Board of Zoning Appeals

Munson Township

Minutes of April 19, 2012

Chair Bobbie Nolan called the meeting to order at 6:30pm with Gabe Kezdi, Sophie Horvath, Heather Crawford, Lucy Longo, Don Alexander, Zoning Inspector Tim Kearns, Secretary Paula Friebertshauser and Court Reporter Nayann Pazyniak present. Richard Wright was absent. 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. If a case goes to court decisions are based on what is presented this evening. 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.

Tim Kearns, Zoning Inspector, was sworn in.

CASE 12-05: Joseph Bastulli, 12505 Heath Rd., Chesterland OH – request to construct a 24 x 26 ft. accessory building 11 ft. from the north side property line. Violates SEC. 411 - Minimum Dimensional Requirements-the minimum side yard requirement is 25 ft.

Mr. Kearns read the variance request and violation. He showed a survey and presented photos that indicated where the proposed building would be. Ms. Nolan asked Mr. Kearns how far the property slopes. Mr. Kearns replied that she would have to ask the appellant.

Joseph Bastulli was sworn in. He explained the 24 x 26 sq. ft. building would architecturally match the house and be located at the end of the driveway for access. The lot is an unusual shape and the slope quickly falls from the driveway approximately 3 feet, then there is a swale and another valley. The location is the best cost option. When asked the purpose of the building, Mr. Bastulli explained it would be storage for a car and jet skis. Ms. Nolan asked if there would be a second floor. Mr. Bastulli confirmed there would be a second floor with an unfinished interior. It would have a stairway and be used for additional storage. When asked if there would be water and electricity in the building, Mr. Bastulli replied there would be electric only. Mr. Kezdi asked if the septic prevented him from building in another location. Mr. Bastulli explained that the septic is behind the home further with the pumping station that has to pump uphill. He approached the table and pointed out the septic area. Ms. Crawford asked about another structure located on the property. Mr. Bastulli explained it is a small 10 x 14 ft. shed with the jet-skis behind it. Ms. Horvath asked why the building could not be moved closer to the home. Mr. Bastulli explained the distance on the site plan is only 10 to 15 feet and with a screened in porch they could not architecturally connect it to the home. Ms. Crawford pointed out something in the back of the lot and asked what it is. Mr. Bastulli replied it was firewood, but is no longer there. When asked if there would be anything livable in the structure, Mr. Bastulli replied no and added there would be no water or heat.

Ms. Nolan stated for the record that 21 affected property owners were notified in Case 12-05. Marianne Maclean of 12831 Aquilla Road was sworn in. She explained she used to live in that home and there is no place else to build a barn. She added that the work they have done is fabulous.

Sophie Horvath moved and Lucy Longo seconded that in Case 12-05 for Joseph Bastulli at 12505 Heath Road the variance be granted as requested. Discussion following the motion included: there can be a beneficial use because it is a primary residence, but the variance is not substantial; it will not change or alter the character of the neighborhood; no neighbors came to object so no adjoining properties will suffer any detriment; the delivery of government services will not be adversely affected; and because of the placement of the septic and porch location there is no feasible way to construct the building without a variance; and substantial justice will be done by granting the variance. Upon the roll call, all members voted yes, 5-0, motion carried.

CASE 12-03: Robert Marn for the Munson Board of Trustees, 12641 Bass Lake Rd, Chardon OH – request to construct a parallel parking lot 0 ft. from the north side property line. Violates SEC. 521k Parking (in part) shall not be located in the minimum setback for front, side, or rear yard of any lot. SEC. 521.2 Size of Parking Spaces – the width of a parking space shall be a minimum of ten (10) feet and the length shall be a minimum of twenty (20) feet.

Mr. Kearns read the variance request and violation. He explained that the size of the parking spaces was not in violation so the Board should disregard that portion. He presented photographs of the proposed location of the parking area that would be located across from the tennis courts. Ms. Nolan asked if it would be in between the trees or would they have to be moved. Mr. Kearns replied “in between”. He also added that it is his understanding they would like to put up a fence as well. Ms. Nolan commented that according to the drawing the parking area is 120 feet in width, and she asked how deep. Mr. Kearns replied 16.5 feet and that it would be for parallel parking.

Ms. Horvath commented that if someone sees cars there others will park on the grass. Mr. Kezdi asked how high the proposed fence would be. Mr. Kearns explained it is his understanding that it is a split rail fence. Ms. Crawford asked if the cost to grade out the property would be from township funds. Mr. Kearns said “yes”.

Robert Marn, Chair of the Park Board, was sworn in. He explained that the request originated from a resident who is an avid tennis player, and because he plays almost every night, he proposed the parking area. It was brought to the Park Board and discussed. They felt it would be a good use of the property and relatively easy to do between the two landscaped areas as an extension of the existing drive. Upon the unanimous vote of the Park Board, it was presented to the Trustees. Ms. Nolan asked if the Trustee approval was unanimous. Mr. Marn did not know.

Mr. Kezdi commented that the park is pretty right now and it would detract from the entrance. He felt there is an enormous parking lot and if someone is going to exercise anyways, it would be a useless expense. Furthermore, he pointed out that the distance from the tennis court gate to the proposed lot and that of the existing lot is farther. He wondered why the Park Board would want to tear something up to save one resident going to exercise. Mr. Marn commented that the area would not be seen from the road. Mr. Kezdi countered that it would be seen as you drive in and Ms. Horvath’s point of others also parking on the grass was valid. He asked if they intend to move the tennis court gate. Mr. Marn replied “no”. Mr. Kezdi pointed out there is a fire hydrant on that side of the street and usually cities have restrictions with parking on the same side. Ms. Longo pointed out that normally people park on the south side. Ms.

Horvath commented that people do not read signs and she questioned how they intended to limit it to four parking spaces. She expressed concern for maintenance of the park. Mr. Marn responded that the parking area will be designated as parking for the tennis courts; and the "No Parking on the Grass" signs are ignored anyways. He added that the resident had offered to pay for it. Ms. Nolan asked if the Park Board has done any research as to cost. Mr. Marn replied they had not; the variance was the first step. Mr. Kearns interjected that if the Board wanted an answer in regards to cost, Jim Teichman is present. Mr. Marn commented they have fencing prices. He clarified that the fencing will just be at the site not down the property line. The driveway was done with asphalt grindings and this project would be the same.

Ms. Nolan stated for the record that 35 affected property owners were notified in Case 12-03. She explained one of the board members, Lucy Longo, is an affected property owner. She asked if anyone had a problem with Ms. Longo acting on the case. No one objected.

Andy Bushman was sworn in. He voiced the following concerns: if the timeline were to be looked at the zoning certificate was denied January 27th, but the plans were not given to the Trustees until March. Furthermore, a motion was not made to give Mr. Marn authority to act on the Trustee's behalf. Mr. Bushman explained that with the 120 feet and an average car being 17.5 feet, 6 cars can actually fit there. He felt there is no practical difficulty and the Duncan factors were not met. Ms. Nolan asked Mr. Bushman if it was unanimous with the Board of Trustees, he replied "no it was not". She asked if it was normal for someone else to come in representing the Trustees. Mr. Bushman replied it was always a Trustee. Ms. Nolan asked why it was the Board's decision. Mr. Bushman explained the decision was not made. She wondered why the other Trustees were not present. Mr. Marn commented that he would not be in front of the Board if not for the Trustees. Ms. Nolan again said it was not normal to have someone else represent the Trustees. Ms. Longo asked if there was a possibility of postponing the case and having a Trustee come. Mr. Bushman interjected that was never made a motion. Ms. Horvath countered that the Trustees sent Mr. Marn as a representative.

Jim Teichman was sworn in. He felt that whatever the number of affected residents are, there are actually 6,200 residents affected. He pointed out if a person were to go on Howard Hanna's website the Bass Lake Road Park and Scenic River Retreat are shown as aesthetically pleasing. Mr. Teichman explained that as he was leaving to attend the hearing, his 16-yr old daughter asked him "Aren't people going there to exercise?" Mr. Teichman also commented on the fact that the fire trucks have to pull in and straddle the catch basin. They go in and turnaround and have a flexible hose that gets attached to the hydrant. If Munson requires mutual aid, other trucks will need access to the hydrant. He approached the table and pointed out the process in reference to the pictures. He estimated that the parking lot would cost \$4,000 to strip and install a 10 - 12 inch of base with grindings on top.

Gabe Kezdi moved and Heather Crawford seconded that the application for Case 12-03 for Munson Township Park be rejected. Discussion included that the property has use without the variance as a township park and there is plenty of parking; the variance is substantial; it would detract from the appearance; it would change the character of the park and encourage others to park on the grass; the delivery of government services could be adversely affected, and is a big concern. Mr. Kezdi did not think it necessary to take steps to endanger residents to give an individual who requested to only have to walk a short distance.

Ms. Horvath commented that she would like to thank the Park Board for their service. They are only asking for four parking spaces which she saw as very little problem as long as the township could hire a patrol to cite and arrest violators.

Ms. Nolan pointed out in the general provisions of the Munson Township Zoning Resolution part of the purpose is to protect building setback lines, and regulate density and use of buildings and structures. One is to conserve and protect the natural resources of the township and ensure that development is in accord with the capability and suitability of the land to support it. In creating the four spaces, the cost is not a concern, but the project adversely affects the character of the park. She went there two days ago and thought it was beautiful, and to destroy that when there is already a parking lot, is doing it an injustice. Ms. Nolan also wanted to convey that she appreciates the Park Board, but just doesn't feel this is necessary.

Ms. Crawford commented there is not much of a hardship, and particularly with parallel parking, she felt people are going to pull in and swing around and tear up the grass. In reference to the Duncan factors, Ms. Nolan felt it would not be within the spirit and intent of zoning. She wondered what would happen when the people who are playing volleyball see that the people playing tennis have their own parking.

Ms. Longo specified a "yes" vote would pass to deny the variance request. Ms. Horvath commented that what we are doing in denying the request is putting a damper on the enthusiasm and projects of the Park Board. Ms. Nolan responded she would hope not for all the wonderful work they are doing.

After all the above discussion, and upon the roll call, members voted as follows: Mr. Kezdi, yes; Ms. Crawford, yes; Ms. Longo, yes; Ms. Horvath, no; and Ms. Nolan, yes. The variance request was denied, 4-1. Motion carried.

CASE 12-06: Rick Self for Circle K, 11800 Mayfield Rd., Chardon OH – request to construct an 18.5 sq. ft. ground sign. Violates SEC. 1003.6a2 Sign area shall not exceed 16 sq. ft.

Mr. Kearns read the variance request and violation. He explained that the proposed sign would be replacing the existing one. Rick Self for Circle K was sworn in. Ms. Nolan asked if the new sign was more of a ground sign. Mr. Self explained it is a reface and is the exact same size as the existing one. The face of the sign will go in the existing frame or cabinet. The sign company was sent out to save dollars; they try not to change the existing structure. He commented that this size sign was nonconforming to begin with. Mr. Self explained they are changing the manual signs and putting in new LED signs that can be changed from inside the store. The LED will only be used for pricing and there will be no flashing. This information was relayed to Mr. Self after he had met with Mr. Kearns.

Mr. Self informed the Board that if a building is located on a corner typically two signs are allowed - Circle K just wants one. Ms. Nolan responded that unfortunately in the township's zoning for the commercial district corners are not addressed.

Mr. Self explained they have expanded to the Great Lakes region and have 144 sites in New England. In Ohio, they also work with Marathon stations. Ms. Nolan asked if locals are buying Marathon fuel, Mr. Self replied "No, Circle K".

Ms. Nolan pointed out there are rocks on the other side of the sign and wondered if they would be in the sight line for people coming from the west. Mr. Self responded that it is his understanding they are for

decoration or safety. Ms. Nolan commented it is a dangerous corner. Mr. Self explained they typically put in landscaping, but isn't sure if they will at that location.

Ms. Crawford asked Mr. Kearns if there was a variance before, and if so, why they are here now. Mr. Kearns responded that the sign is now going over the poles. Mr. Self disagreed and explained that the sign would not be going over the poles.

Ms. Longo pointed out that she is an affected property owner and wondered if Mr. Self had any objection to her acting on the case. He did not.

Mr. Kearns explained the variance was accepted with what was presented to the zoning office. Mr. Self concurred that is why he wanted to make that point earlier. He feels it is a minimal request, and they are not trying to make it huge.

Ms. Horvath commented she was having a problem understanding the request – it is a dangerous intersection and some people are color blind and cannot see the difference between red and green. Mr. Self responded it is the same structure and the LED's are less ambient. The ability to change the sign from inside the store will be much safer then the employees doing it manually.

Ms. Nolan stated for the record that 22 affected property owners were notified in Case 12-06. There was no public comment.

Sophie Horvath moved that the variance as requested in Case 12-06 to construct an 18.5 sq. ft. ground sign which violates the 16 sq. ft. requirement, be denied. The motion failed for lack of a second.

Heather Crawford moved and Gabe Kezdi seconded to approve the variance requested in Case 12-06 for the 18.5 sq. ft. sign for Circle K. Discussion following the motion included: it does not seem much of a change if any and the LED lighting would be easier to read, and we can see the safety issues in having to change the signs. Ms. Nolan added there is a safety issue because it is a dangerous intersection but she believes Circle K will make it safer. The variance is not substantial because the request is only for 2.5 feet more; it is in the commercial district so no adjoining property owners will suffer a detriment; the delivery of government services will not be adversely affected; it cannot be feasibly relieved through some other method than a variance; and the spirit and intent behind the zoning would be upheld. Upon the roll call, members voted as follows: Mr. Kezdi, yes; Ms. Horvath, no; Ms. Crawford, yes; Ms. Longo, yes; and Ms. Nolan, yes. Motion carried 4-1.

CASE 12-07: Rick Self for Circle K, 11800 Mayfield Rd., Chardon OH – request to construct a 3' x 3' canopy sign. Violates SEC. 1003.6a1 Each commercial use may be permitted one (1) wall sign.

Mr. Kearns read the variance request and violation. He said the building itself has a sign, but they want to put three on the canopy sides and front. Ms. Nolan asked if this location was going to operate 24 hours per day because the canopy gives off a lot of light. Mr. Self commented that no one told him if the 24 hours was allowable, and if it were more of a developed area it would be more viable. Ms. Crawford asked if Mr. Self knew how many lights were under the canopy. He did not but explained the lighting would not change. He added that people want to rob stores that are not well lit. The safety issue is paramount. If there is a residential area they need to be considerate of specific areas which is particularly why he is involved.

Ms. Crawford expressed concern with it being in a residential area and wondered why there needs to be lit signs on the canopy. Ms. Nolan indicated that light pollution is a concern and wondered how much light would be coming from the canopy. Mr. Self explained that the Circle K design has a darker background and the lighting is not really significant. There has never been an issue. He did remind the Board that it is in a commercial district. Mr. Kearns added that if the variance is approved and Mr. Self comes back for a certificate, he will review the lighting terms. Mr. Self reiterated that just the "K" will be illuminated on the canopy. Mr. Self then proposed that just one logo on the front be illuminated not the sides. Ms. Longo felt that the illumination should be as planned because they will not provide much light. Ms. Horvath commented that it is not the safest intersection and she thinks the township is being overrun with signs.

Heather Crawford moved to deny the variance requested in Case 12-07 for Circle K's canopy lights. The enhancement of striping as well as the facing on the building would obtain the objective. She thought with it being in a somewhat residential area it was not necessary. She indicated the pictures are a substantial improvement, but did not think the illuminated K's would add to it. Mr. Self commented it is hard to see the building coming from the east. Ms. Longo also added there are several buildings close to the road in that direction. Ms. Crawford explained her concern is as a resident and it is more aesthetically pleasing. There are already two signs. Mr. Self pointed out that he modified it to one logo sign on the canopy; and reiterated his modification to one (1) illuminated 3' x 3' canopy sign with two vinyl decals. Ms. Longo commented that she lives in the area and coming from the east the illuminated signs would be helpful. Mr. Kezdi explained he would rather see a successful Circle K than an abandoned building, and if three (3) illuminated signs are what it takes, he would like to see that. Mr. Self explained he has a copy of the lease and they are responsible to do all they can do to make it work with the option to renew. They are in control so it can exceed the current lease.

Ms. Nolan commented to Ms. Crawford that she understands what she is saying and personally doesn't like the three signs but thinks they would be helpful. She indicated that Ms. Crawford's motion was still open. The motion failed for lack of a second.

Kenneth Longo was sworn in. He explained that coming up Mayfield Road heading east nothing can be seen coming up the hill, and a person can tell if the gas station is open if the lights are on. Ms. Crawford asked him if the ground sign with the illuminated pricing would be enough, and Ms. Nolan wondered if he could see the light from the canopy. Mr. Longo responded yes, and added that he has seen a lot of accidents there.

Heather Crawford moved to approve the variance request in Case 12-07 with the modification of 3 x 3 canopy signs – a total of three allowing for one of the three to be illuminated with the other two to be decals, with the illuminated sign facing Mayfield Road. The motion failed for lack of a second.


Gabe Kezdi moved and Lucy Longo seconded that the variance requested in Case 12-07 for Circle K be approved as originally requested. Ms. Horvath commented that she was not happy to see another big commercial plug and did not think it was necessary. Ms. Longo felt the lit signs would make it easier to see. Ms. Crawford added that the Board already approved the ground sign. Mr. Self commented that in all his years he has never had one instance where they have had a lawsuit, and if done right should enhance the property. Mr. Kezdi felt a well lit service station is a deterrent to theft. Ms. Nolan explained there is a beneficial use, although it is in a commercial district; the variance is not substantial; because it is in a commercial district I don't think the neighborhood would be altered; we have not heard from any affected property owners; the delivery of government services would not be adversely affected; the

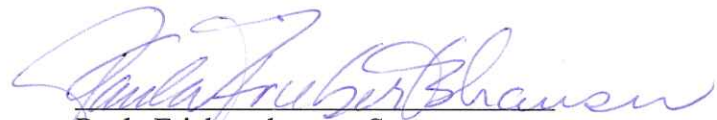
predicament can be feasibly relieved without a variance because we could not have three more signs, but the spirit and intent behind the zoning, and the fact we want businesses to succeed in Munson not empty storefronts. She thanked Mr. Self for coming. Upon the roll call, members voted as follows: Mr. Kezdi, yes; Ms. Horvath, no; Ms. Crawford, no; Ms. Longo, yes; and Ms. Nolan, yes. Motion carried 3-2.

Sophie Horvath moved and Lucy Longo seconded to approve the minutes of March 15, 2012 as written. Motion carried. Lucy Longo moved and Sophie Horvath seconded to approve the findings of fact for Case 12-04. Motion carried.

Mr. Kezdi mentioned that he would not be present at the May 17th meeting. Ms. Friebertshauser will notify Mr. Alexander that he will be serving on the Board that evening.

Ms. Crawford moved and Mr. Kezdi seconded to adjourn the meeting at 8:55pm.


Bobbie Nolan, Chair


Paula Friebertshauser, Secretary