

# Board of Zoning Appeals

## Munson Township

Minutes of April 19, 2023

Chair Dennis Pilawa called the meeting to order at 6:30pm with Danielle Pitcock, Don Ondrejka, Jim O'Neill, Joe Tomaric, Alternates Roger Simpson and Carol Maver, and Secretary Paula Friebertshauser present. Court Reporter Laura Ware was present. The Pledge of Allegiance was recited.

Mr. Pilawa then explained the role of the Board of Zoning Appeals is to apply certain principles of law as required by the Ohio Supreme Court. He explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. The Board has limited authority and cannot change the zoning, but there is a provision in the zoning resolution for variances. A variance confers a legal right that lasts forever. 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. The next meeting will be May 17, 2023.

Don Ondrejka moved and Joe Tomaric seconded to approve the minutes of March 15, 2023, as noted. Motion carried, 5-0.

It was discussed and agreed that the first two cases would be heard together. Mr. Pilawa referred to Section 801 for Conditional Use permits. One of the allowed Conditional Uses is Golf Courses (Sec. 803). He also mentioned that Mr. Mucciarone gave his son-in-law his first job so if anyone wanted him to recuse himself, he would. No one objected.

**CASE 23-04: FMGC, LLC (Mike Mucciarone, Officer)** 13095 Rockhaven Rd., Chesterland OH – Conditional Use renewal – Sec. 8012n (in part) a conditional zoning certificate for any of the uses provided herein shall be valid for a period not to exceed five years from the date of issuance.

**CASE 23-05: LLGC, LLC (Mike Mucciarone, Officer)** 11135 Auburn Rd., Chardon OH – Conditional Use renewal – Sec. 8012n (in part) a conditional zoning certificate for any of the uses provided herein shall be valid for a period not to exceed five years from the date of issuance.

Mr. Pilawa read the legal notice for each case. Zoning Inspector Jim Herringshaw was sworn in. He explained that both entities were present for a renewal of their Conditional Use permits. They came five years ago. Mr. Pilawa asked Mr. Herringshaw if there were any changes. He responded there were none.

Todd Petersen and Mike Mucciarone were sworn in. Mr. Petersen mentioned they are two separate entities but the same owner. Mr. Petersen stated they are golf courses and will continue as such. Mr.

Mucciarone concurred there are no changes. Mr. Petersen added maybe in the future but nothing of which he is aware.

Mr. Pilawa stated for the record that Case 23-04 had fifty affected property owners and Case 23-05 had sixty-eight affected property owners.

Dorothy Van Poppel Ray of 11292 Fowlers Mill Road was sworn in. She endorsed the continuance of Legend Lakes as a golf course. She felt it was a highlight of the community.

Joe Tomaric moved and Don Ondrejka seconded to approve the extension (renewal) of the Conditional Use permit for Case 23-04 for FMGC, LLC. Upon the roll call all voted yes, 5-0, motion carried.

Joe Tomaric moved and Don Ondrejka seconded to approve the extension (renewal) of the Conditional Use permit for Case 23-05 LLGC, LLC. Upon the roll call all voted yes, 5-0, motion carried.

**CASE 23-06: Todd Carroll** 11865 Julie Dr., Chardon OH – requests to construct a new residence 60' from the front road right-of-way with a driveway 10' from the west side property line. Violates SEC. 411 Minimum Dimensional Requirements-minimum setback from the road right-of-way is 80'; and SEC. 511 Driveways (in part) driveways shall be a minimum of 15' from any lot line.

Mr. Pilawa read the variance request and violations. Zoning Inspector Herringshaw referred to the aerial view that showed it was a corner lot. The driveway is off Julie Drive. The site plan shows some topography which is the reason for the proposed location and the need for a variance. Mr. Ondrejka asked if the adjacent property had to have a variance because of the swale. Mr. Herringshaw was not sure. Mr. Ondrejka thought it was a similar situation.

Todd Carroll was sworn in. His builder, Ference Jaczo of 10830 Reservoir Drive in Mantua was sworn in and was speaking on behalf of the property owner. Mr. Jaczo explained that to the east is Best Sand and the hill drains to Bass Lake Road. There are huge culvert drains underneath the road and massive amounts of water are draining into two ponds. He explained that the service department has agreed to redirect the water. It is a corner lot, there is an 80-foot setback and the footprint for the house is tight. It will be a two thousand square foot ranch with a pool; if they were to conform, they could not put in a pool. Mr. Jaczo did not think it would affect the neighborhood and would line up with the neighboring home. The septic is in the back.

Mr. Tomaric commented that there appears to be a raised bed or small structure in the back of the neighboring property. Mr. Carroll thought it was a garden. Mr. Jaczo commented that the neighbors did not address the water issue. This property was the last lot left. He would encourage neighbors to trench to help the situation. They can isolate it to stay in a direct path by cleaning it out. He believed there would be a firm footing for most of the structure. There is an onslaught of water during certain times. The service department has already snaked out the gas line.

Resident Carol Maver asked if there would be a basement. Mr. Jaczo said there would. She felt there might be an issue. He responded that it is high enough in the front. Ms. Maver explained she is a realtor and showed the house across the street 10 years ago and the basement was wet.

Mr. Pilawa stated for the record that there were twenty-seven affected property owners notified in Case 23-06. There was no public comment.

Mr. Pilawa explained there are certain principles the Board applies to an area variance. He asked Mr. Jaczo the following: will the essential character of the neighborhood be affected? – the response was no; would adjoining properties suffer a detriment? – the response was no; will the variance adversely affect the delivery of government services? – the response was no; could the predicament be feasibly relieved through some other method than a variance? – the response was it would not really be cost effective or realistic; regarding the spirit and intent, Mr. Pilawa was not sure anyone who wrote that is with us any longer, but thought the Board had a good idea of it; and did the property owner know of the zoning restrictions? – Mr. Pilawa thought so as it has been online and available. After the discussion, Don Ondrejka moved and Joe Tomaric seconded that the variance requested in Case 23-06 be granted as written. Mr. Tomaric asked if it would be possible to put the house where the septic is planned and put the driveway on Bass Lake Road. Mr. Jaczo responded that the septic is in the only place it could be with the second field next to it. Mr. Tomaric commented that there is so much property, but it is separated from the house location. Upon the roll call, all members voted yes, 5-0, motion carried.

Mr. Jaczo thanked Mr. Pilawa for his explanation of the Board of Zoning Appeal's process and commented that no one has ever explained that before.

The meeting was adjourned at 7:07pm.

 5/17/23  
Dennis Pilawa, Chair Date

 5-17-23  
Paula Friebertshauser, Secretary Date

