

# Board of Zoning Appeals

## Munson Township

Minutes of May 19, 2011

Chair Bobbie Nolan called the hearing to order at 6:33pm., Sophie Horvath, Lucy Longo (arrived at 6:40), Richard Wright, Don Alexander, and Secretary Paula Friebertshauser were present. Lonny Beck and Gabe Kezdi were absent. Court Reporter Nayann Pazyniak was present to record the minutes. The Pledge of Allegiance was said.

Sophie Horvath moved and Richard Wright seconded to approve the April 14, 2011 minutes. Motion carried.

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. 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 11-04: Hutter Properties, Ltd.**, 11624 Basswood Rd., Chardon, OH – request to construct a 39 x 42 sq. ft. unattached garage 36.5 feet from the south property line of a corner lot. Violates SEC. 411-Minimum Dimensional Requirements – minimum side yard corner lot is 60 ft.

Mr. Kearns, Zoning Inspector, was sworn in. He read the variance request and violation, and presented photographs of the proposed site. Mr. Kearns mentioned that the home is in Mr. Hutter's business name, but the house has been given to the son and hasn't transferred yet. The lot size is 1.45 acres and there are quite a few trees so the building won't be easily seen from Springway Road. Mr. Alexander pointed out that the appellant is requesting a 39 x 42 sq. ft. garage, but the diagram shows a 36 x 42 sq. ft. structure. It was confirmed that the variance was for a 39 x 42 sq. ft. garage.

Matt Hutter was sworn in. He explained that the main reason for the location is the septic system. There is a bit of driveway already there so it fits nice and they won't have to remove trees. When asked, Mr. Hutter explained that the purpose of the building is to store cars and motorcycles. Mr. Wright asked who would be constructing the building. Mr. Srpan of Srpan Construction was sworn in. He explained there will be 100amp electric, telephone and cable lines, but no water or toilet facility. Mr. Hutter added there is very little storage in the house.

Ms. Horvath stated that she is always concerned that either the applicant or future resident could start a business with a structure of this size. She asked why Mr. Hutter couldn't have a smaller building. Mr. Hutter responded that cars are their life and their business – they need the requested size. They have their own shop on GAR Highway, and have no intention of starting a business. He said he couldn't speak for future residents. Mr. Srpan commented that the structure will be only eight or nine feet high, and fully insulated and dry-walled and sided to match the house. They decided to set it back in the woods because it is less noticeable.

Ms. Nolan stated for the record that 19 affected property owners were notified in Case 11-04. There was no public comment.

Mr. Alexander mentioned to Mr. Hutter that in looking at the layout, he wasn't sure how cars were going to get in and out at the angle and was just something to consider.

Richard Wright moved and Lucy Longo seconded that the variance requested in Case 11-04 be approved. Discussion included: the properties are unique (in Bass Lake community); the house can be used, but they need the additional structure; much thought was given to the consideration of placement; the delivery of government services will not be impeded due to driveway accessibility; the variance is not substantial; the character of the neighborhood will not be altered; the owner was not aware of zoning; the predicament cannot be remediated because of the location; and thus the spirit and intent behind the zoning will be upheld. Upon the roll call, members voted as follows: Mr. Alexander, yes; Ms. Horvath, no; Mr. Wright, yes; Ms. Longo, yes; and Ms. Nolan, yes. Motion carried 4-1.

**CASE 11-05: Mike Lee**, 13392 Walnut Trace, Chardon, OH – request to construct a 38 x 40 sq. ft. accessory building 7.5 ft. from the north property line. Violates SEC. 411-Minimum Dimensional Requirements-minimum side yard is 25 ft.

Mr. Kearns read the variance request and violation and presented photographs of the site. Mike Lee was sworn in. He explained the reason for the location is because of the septic system which is directly behind the house. He approached the table and showed where the system is located. Mr. Lee's intention for the building is for additional parking and storage. He has four children and has outgrown the existing garage. He currently owns three vehicles, but could eventually own six. A contractor will build the garage. Mr. Wright asked about a slight addition indicated on the plans. Mr. Lee explained it will be an open porch. Mr. Wright asked how Mr. Lee found out about the zoning restriction. He responded that he had called Mr. Kearns.

Ms. Nolan asked if there would be upstairs access. Mr. Lee responded that one-half of the loft would be used for storage. There would be electric, but no water to the building.

Ms. Nolan stated for the record that 40 affected property owners were notified of Case 11-05. Andrew Gruber, affected property owner, wanted to know what lot the property abutted. Ms. Nolan asked Ms. Friebertshauer to explain the process of the mailing to affected property owners. Ms. Friebertshauer explained that the letters are sent within a 1,000 foot radius of the appellant's property. She brought up the GIS on the computer and showed Mr. Gruber where his property was in relation to the Lee property. Mr. Gruber's property was not that close and he had no concerns.

Ms. Horvath confirmed with Mr. Lee that his home is 450 feet from the road and extremely wooded so the building would not be seen.

Annette Schell of 11465 Eastridge Circle, came to speak in support of the Lees' request. She explained their lots are pretty irregular and there is a creek that runs next to the additional building. She added that the Lee's property sits back far from the road. A lot of the neighbors had to get variances because of the irregular lot size.

Doug Goergen of Elk Run said he is probably the only one who can see the Lee's home. He had no objection.

Lucy Longo moved and Don Alexander seconded that the variance requested in Case 11-05 be approved as written. Discussion included: that the property as it stands can be used as is, but the Board takes into consideration the property location; the variance is not substantial; it is so far back it doesn't affect the neighborhood; government services would not be impacted because it would have the same access; the property owner did not know a variance was necessary, but contacted Mr. Kearns; it is the best location due to the septic system, thus the intent of zoning fulfills the requirements observed. Ms. Horvath commented she would like to reiterate there is the possibility of starting a business, however the appellant stated his intention and is under oath. Ms. Nolan said Mr. Lee stated the use would be for storage including the upper floor and that is what the Board has to go on. Upon the roll call, all members voted yes, 5-0, motion carried.

**CASE 11-06: Laurence King**, 10800 Butternut Rd., Chesterland, OH – request to construct a 13 x 13 sq. ft. gazebo 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 and presented photographs of the site. Lawrence King was sworn in. He explained the overall scope of the project is much less than the other requests he had heard that evening. He felt the gazebo would enhance the property and the pond. He explained his property has unique topography because they are at the top of a crest and the property slopes in the back where the leech fields are. The builder is not determined yet, he just did a conceptual rendering.

When asked if it would be enclosed with screening, Mr. King said it would be a strong possibility due to the wet weather, but it's just a concept now. Ms. Horvath commented that he already has the foundation and complimented him on the renderings. Mr. Alexander asked about the concrete pad. Mr. King responded it is a floating slab and his intent is to do a deck-like flooring.

Ms. Nolan stated for the record that 52 affected property owners were notified of Case 11-06. Brian Smith, 10794 Butternut, was sworn in. He owns the property adjacent towards the front and commented that Mr. King has made considerable improvements to the home since he's been there. Everything has been top-notch and he feels the gazebo will be a significant improvement.

Ms. Nolan explained that she had been given a letter by an affected property owner. The problem is the letter cannot be questioned. Normally, the Board does not accept letters for that reason. She asked what would be the pleasure of the Board? Mr. Wright said he did not feel it should be read if it has no value. Mr. Alexander agreed.

Sophie Horvath moved and Lucy Longo seconded to grant the variance as requested by Laurence King in Case 11-06 to construct a 13 x 13 sq. ft. gazebo in front of the principal structure. Discussion included: the property in question does yield value as they have a residence; obviously there have been improvements as attested to by the neighbor; the variance is not substantial due to the location; the essential character of the neighborhood is not affected due to the setback; it warrants merit that the workmanship throughout was done with due diligence; there is no detriment to affected properties; the delivery of government services will not be adversely affected; the property owner was not aware of the zoning restrictions when he purchased the property; the gazebo can be put elsewhere but because of the pond it warrants placement there; and the merits of the zoning code will be upheld. Upon the roll call, all members voted yes, 5-0, motion carried.

**CASE 11-07: Floyd Lanhan**, 12634 Auburn Rd., Chardon, OH – request to construct a 64 x 30 sq. ft. attached garage 22.3 ft. from the north side property line, a portion of which is located in the front of the home. Violates SEC. 411-Minimum Dimensional Requirements-minimum side yard is 25 ft. 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 violations. He presented pictures of the site and explained Mr. Lanhan is converting an existing garage to a bedroom. The structure meets the setback from the road. Mr. Alexander verified that it would be 83.70 feet from the road to the face of the proposed structure.

Floyd Lanhan was sworn in. He explained he builds hot rods and motorcycles as a hobby, and doesn't like them sitting out. He would also like to pull his truck in. Mr. Lanhan explained he has grandkids and will be remodeling the three-car existing garage into a bedroom and family room. He has remodeled the home and the attached garage will be sided to match. Right now he has three trucks sitting out. Mr. Lanhan explained he likes things neat, and is proud of what he has done to the property so far.

Ms. Nolan asked if the existing garage is attached. Mr. Lanhan responded that it is attached by a finished breezeway. When asked if he is doing the work himself, Mr. Lanhan said yes, he's a contractor, but will have some help.

Ms. Horvath asked what the reason is for the placement. Mr. Lanhan explained that behind the house the yard is completely fenced off – he doesn't let his dog loose and he has grandchildren and a pool. Mr. Lanhan stated that the attached garage will look like it has always been there.

Ms. Nolan stated for the record that 37 affected property owners were notified in Case 11-07. Bruce Williams, who resides at the corner of Mayfield and Auburn Roads, was sworn in. He lives four doors down from Mr. Lanhan. Mr. Williams commented that since Mr. Lanhan has moved in, he has only seen improvements and has no objections. He doesn't like to see vehicles outside. Ernest Keebler of 12622 Mayfield Road and the adjoining neighbor, commented that he didn't see anything that would make it look bad – he had no objections.

Ms. Horvath commented that since he already has a garage, she is puzzled by the request and doesn't see how this will enhance the neighborhood or Munson Township. She added that the footprint is bigger than her house. Mr. Lanhan responded that the storage is needed for his cars. Ms. Nolan questioned Ms. Horvath if she understood that the existing garage will be turned into a bedroom. Mr. Lanhan approached the table to explain the plans on the drawing. Ms. Horvath felt the appellant should have specified that in his application, whether he's asking for an addition for a garage; or if he's asking for part residential he should ask for it.

Richard Wright moved and Lucy Longo seconded that the variance requested in Case 11-07 by Floyd Lanhan to construct a 64 x 30 sq. ft. attached garage in the front part of the property within the setback of 80 feet be approved. Discussion included: it's obvious the work that has been done does yield use without the addition, but with the facts stated it would be beneficial; the variance is substantial, but as attested to by the neighbors' appearance it will improve the property; adjoining properties will not suffer a detriment as attested to by a neighbor; the delivery of government services will not be adversely affected; the property owner was not aware of the zoning upon purchasing the property; the predicament cannot be feasibly relieved through some other method because of the proposed use there is no other location for pulling in the truck; and the spirit and intent behind the zoning will be upheld. Upon the roll

call, members voted as follows: Mr. Alexander, yes; Ms. Horvath, no; Mr. Wright, yes; Ms. Longo, yes; and Ms. Nolan, yes. Motion carried 4-1.

**CASE 11-08: Lyle & Joni Stusek**, 9754 Mayfield Rd., Chesterland, OH – request to construct a 24 x 28 sq. ft. accessory structure 3 ft. from the west side property line. Violates SEC. 411-Minimum Dimensional Requirements-minimum side yard is 25 ft.

Mr. Kearns read the variance request and violation and presented photographs of the site. Joni Stusek was sworn in. When asked, she approached the table to describe the proposed location. Mr. Kearns added that the lot just drops off and there is a hardship to build near the stream. Ms. Stusek said they also have more cars than drivers and their shed is loaded to the gills.

Ms. Nolan asked if the accessory building would have cars in it. Ms. Stusek replied “yes”. And when asked why it couldn’t be moved over, Ms. Stusek replied the slope is too severe. The driveway will continue back. Ms. Stusek explained it will have electricity, water and a drain, but no bathroom facilities.

Ms. Nolan stated for the record that 32 affected property owners were notified in Case 11-08. Alexandra Zeroff of 9740 Mayfield Road, and adjoining property owner, was sworn in. Ms. Zeroff explained her house is on the other side of the creek and bushes and trees are there.

Sophie Horvath moved and Don Alexander seconded that for this very small structure in Case 11-08 - Lyle & Joni Stusek be granted as requested. Discussion included: the property in question can yield benefits without a variance; the variance could be viewed as substantial due to the location, but the facts stated by the neighbor it won’t be a detriment; the essential character of the neighborhood will not be affected or altered significantly; the delivery of government services will not be adversely affected; the property owner is not aware of the zoning; the predicament due to the golf course on one side, the leech field in the center, and the significant drop off – the location is the best choice; the spirit and intent behind the zoning would be upheld. Upon the roll call all members voted yes, 5-0, motion carried.

Lucy Longo moved and Richard Wright seconded to approve the Findings of Fact for Case 11-03. Motion carried. Members signed the Decision of the Board form.

The next meeting is scheduled for June 16, 2011 at 6:30pm.

The meeting was adjourned at 8:26pm.

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Bobbie Nolan, Chair

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Paula Friebertshauser, Secretary