

Board of Zoning Appeals

Munson Township

Minutes of May 16, 2013

Chair Bobbie Nolan called the meeting to order at 6:34pm with Richard Wright, Lucy Longo, Alternates Danielle Pitcock and Michael Waclawski, Secretary Paula Friebertshauser and Court Reporter Nayann Pazyniak present. Gabe Kezdi was absent. [Member Don Alexander was present but was not serving on the Board because he was the appellant in the evening's case]. The Pledge of Allegiance was said.

Richard Wright moved and Lucy Longo seconded to approve the minutes of March 21, 2013 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 13-05: Donald Alexander, 12895 Walden Oaks, Chardon OH – request to construct a 24 x 26 sq. ft. unattached two-car garage 15.4 ft. from the side property line and 8 ft. from the principal structure. Violates SEC. 411 Minimum Dimensional Requirements-minimum side yard requirement is 25 ft. and SEC. 509.3 (in part) Accessory structures shall not be closer than 15 feet to the principal structure.

Tim Kearns, Zoning Inspector, was sworn in. He read the variance request and violations and presented photos of the proposed building site. He pointed out that the backyard slopes down quite a bit. The Board had no questions for the inspector, but resident Anna Ibold was sworn in. She was advised that after the appellant was sworn in, she could speak.

Don Alexander was sworn in. He explained that within the last two years he lost his mother-in-law and acquired additional furniture; then last month he lost his father-in-law and now has more furniture and a car. He is looking to add on a garage. With the grade drop, he hopes to put the garage as far away as possible. He indicated the proposed garage is 60 feet from the front of the home. He has a three-bay garage - one is used for a tractor, another his wife's car, and the third is storage for their three children's stuff. He is looking to construct a garage for cars. It would aesthetically match the house and would be a two-car size with one door. He hopes to retain the original builder of his residence. When asked if there would be a second floor, Mr. Alexander explained there will be attic trusses for additional storage, but no living space. The intent is to keep it as far from the side property line and the house – the plan Mr. Alexander presented would be the worst case scenario.

Mr. Wright asked if there was a cement pad there. Mr. Alexander responded that what Mr. Wright saw on the site plan is actually a garden. Ms. Nolan asked him to show where the septic system is located. Mr. Alexander approached the table and pointed it out. Mr. Waclawski asked Mr. Alexander if he has

subdivision rules. Mr. Alexander responded that yes, but coming for the variance is the first step; then he would have to get approval from the homeowner's association.

Mrs. Nolan stated for the record there were 14 affected property owners notified in Case 13-05.

Anna Ibold asked if the garage would have a front, rear or side opening and asked if he had considered the deed restrictions. Mr. Alexander explained he has sent plans to Rich Nering who is acting president. Ms. Ibold commented that she is a homeowner and an adjoining property owner in the neighborhood. Mr. Alexander pointed out that if she were to go to the Phillip's property, they have a garage behind their home. Ms. Ibold indicated she knew and that the property owner just went and did it even though he was not supposed to.

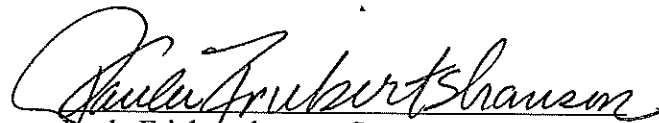
John DiCillo of 12905 Walden Oaks was sworn in. He lives adjacent to the Alexander's. He indicated he was initially concerned that the building was within 20 feet, but after speaking with Mr. Alexander he did not have a problem with the request. He also offered that he was treasurer of the association and would speak with Mr. Nering. He thought he may have to recuse himself from the association vote.

Richard Wright moved and Lucy Longo seconded that the variance requested in Case 13-05 for Don Alexander be approved as written and understood. Discussion following the motion included: there definitely is a beneficial use as he has lived there five years; the variance is substantial due to location as sited by two codes, however, how it will be constructed and the intent of use will work out; the essential character of the neighborhood will not be affected; it will be constructed by the prior builder of the home; adjoining properties will not suffer a detriment as attested by neighbor; the delivery of government services will not be adversely affected as there is still access to the property behind; the predicament cannot be feasibly relieved through some other method; the spirit and intent behind the zoning would be observed and substantial justice done by granting the variance; and surprisingly, the property owner knew of the zoning restrictions. Upon the roll call, all members voted yes, 5-0, motion carried.

Lucy Longo moved and Richard Wright seconded that the Findings of Fact for Case 13-04 Legend Lake Golf Club, be approved. Motion carried.

The meeting was adjourned at 6:53pm.


Bobbie Nolan, Chair


Paula Friebertshauser, Secretary