

Board of Zoning Appeals

Munson Township

Minutes of May 15, 2019

Vice-Chair Danielle Pitcock called the meeting to order at 6:30pm with Gabe Kezdi, Joe Tomaric, Alternates Jim O'Neill and Tim Kearns, Secretary Paula Friebertshauser and Court Reporter Luanne Howe present. Dennis Pilawa was present but did not serve due to the case being a continuance where he was not present for the initial hearing. Don Alexander was absent. The Pledge of Allegiance was said.

Gabe Kezdi moved and Jim O'Neill seconded to approve the minutes of April 18, 2019 as written. Motion carried, 5-0.

Mrs. Pitcock explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. 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.

Continuation of CASE 19-02: Maria Injic, 11845 Stonegate, Chardon OH - request to locate a 24' x 16' accessory building 10 feet from the south side property line. Violates SEC. 411 Minimum Dimensional Requirements - minimum setback from the side property line is 25 feet.

Mrs. Pitcock read the variance request and violation from the legal notice. Zoning Inspector James Herringshaw was sworn in. He explained that since the Board requested additional information, the Injic's provided an amended drawing showing the leech field and an aerial view that provides a better overall view of the location. He pointed out the proposed location of the deck and walkway on the latest photos. The aerial view showed the propane tank and tree line. Mr. Tomaric commented that the approximate distance from the curtain drain to the house is 50 feet. Mr. O'Neill questioned the placement of the shed location because between the original site plan and the newer one, it appeared different. Mr. Herringshaw explained the closest point is 10 feet.

Frank Injic was sworn in. He agreed that the new drawing does look like the building is in a different position; however, it is the same, just a better aerial view. Mr. O'Neill showed him the original drawing. Mr. Injic said the newer drawing is what it would look like. Mr. Tomaric pointed out that there seems to be a bigger dimension in the back. Mr. Injic responded that he measured from the property line. Mr. Tomaric explained that if a straight line were to be drawn back from the driveway the barn would be parallel to the driveway. He thought they would want 12' in the front not in the back. Mr. Injic admitted he is not an engineer, but sketched it in measuring from the property line. He said he would want to keep it parallel to the driveway.

When asked if he wanted to say anything else, Mr. Injic said he would repeat what had already been explained: with the way the property is set and the septic field, there is no other viable location unless it were to be put in front of the home. Mrs. Pitcock said that would also require a variance.

Mr. Tomaric asked the appellant about the area between the home and the septic system because it appears there is a 50 foot buffer. Mrs. Injic responded they did not want to put weight on it. Mr. Tomaric countered it is virgin soil and there is room, although the property line appears to be at an angle. He questioned Mr. Herringshaw as to where he took the photos from. Mr. Herringshaw explained that he was standing next to the house. In showing Mr. Injic one of the pictures in their package, Mr. Injic again agreed that the building would look much better parallel to the driveway. Mr. Tomaric added that it will vary a little when the foundation is laid out.

James Sabel of 10202 Wilson Mills Road was sworn in. Mr. Sabel explained that knowing that someone was going to live there, he maintained a separation (buffer). He planted a tree 18 feet from the corner pin and nursed it for years. He had 6 feet of chicken wire around it. Someone came and scooped up the property pin and the tree when the neighbor's house was built. He contacted someone to survey but has not received a call back. He asked if the property owner could maintain clearance from the line. He presented a picture and said when he started contesting their request stuff, started to be piled up near the property line. Mrs. Injic commented that it is a playhouse and if they had gotten the variance the shed would be up and they would not have to pile stuff there. Mrs. Pitcock reiterated that the Injics' said the playground would be set up upon the shed's construction.

Eleanor Semenik of Wilson Mills Road was sworn in. She asked how high the building would be. The Injics replied approximately 12 feet. Mrs. Semenik commented that Munson Township has zoning in place for the health and welfare of people. The shed does not meet these standards. She asked why it could not be moved to the playground or garden area. She commented the kids would only be there a few years and felt to build a shed to just store a bike was not needed. Mr. Tomaric questioned where she lives. Mrs. Semenik responded "not there", but her family has been in Munson Township for 100 years. Mr. Sabel commented that it is about the quality of life and there are property values to consider. He mentioned that the speed limit has been increased on Wilson Mills.

Mr. Tomaric explained that in calculating on Geauga Maps there is 150 to 160 feet from the corner of the house to the structure. He asked Mr. Sabel if he would notice it more if the structure were to be moved 10 feet; and if it were put right behind his house and 25 feet from the line, would he be ok with that for his visual view? Mr. Sabel responded that he did not think it would make a difference if 10 feet or further. Mr. Tomaric confirmed that it did not seem to be a visual problem for Mr. Sabel.

Mrs. Injic commented that she cannot even see Mr. Sabel's house. They planted 50 trees last week and have ordered 100 more. Nine months out of the year, they definitely cannot be seen. Mr. Sabel commented that when the posts were put up for the shed he could see the red.

The Board took a recess at 7:09pm. The hearing resumed at 7:19pm.

Gabe Kezdi moved and Tim Kearns seconded that the variance requested in Case 19-02 be approved as requested. Discussion following the motion included that with respect to the variance and the factors

to be considered, can there be a beneficial use? yes, it can still be used as a residence, but the shed would provide storage; is the variance substantial? no; will the essential character of the neighborhood be altered? no; will adjoining properties suffer a detriment? no, it is the opinion of the Board that sheds are on many properties and will not cause a detriment; the delivery of government services will not be affected; can the predicament be feasibly relieved through some other method than a variance? the Board does not believe so because of logistics, i.e. septic and the shape of the lot; will the spirit and intent behind the zoning be observed and substantial justice done by granting a variance? yes; and did the property owner purchase the property with knowledge of the zoning restriction? no. Mr. Tomaric added to the motion that it be approved to a verifiable property line - meaning it is up to the Injics to verify where the property line is before they do the measurements. Mr. Injic said they had the property surveyed. Mr. Tomaric responded it is their responsibility to know. Upon the roll call, all members voted yes, motion carried 5-0.

Mr. Sabel commented it was his understanding the Injics would resurvey. Mr. Injic explained it was already surveyed. Mrs. Injic added that the original stake is still there in the front and the opposite side is marked. They did not touch the pin, but would contact the surveyor.

The meeting was adjourned at 7:28pm.

Danielle Pitcock 0/27/19
Danielle Pitcock, Vice-Chair Date

Paula Friebertshauser 6-27-19
Paula Friebertshauser, Secretary Date