

Board of Zoning Appeals

Munson Township

Minutes of June 16, 2016

Chair Dennis Pilawa called the meeting to order at 6:30pm with Bobbie Nolan, Gabe Kezdi, Danielle Pitcock, Alternate Jim Herringshaw, Secretary Paula Friebertshauser and Court Reporter Nayann Pazyniak present. Richard Wright and Alternate Don Alexander were absent.

Mr. Pilawa 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.

The Pledge of Allegiance was said. Bobbie Nolan moved and Jim Herringshaw seconded to approve the minutes of May 19, 2016 as written. Motion carried.

CASE 16-09: Louis Orazem, 13060 Treadway, Chardon OH - request to place a privacy fence 8' tall and 80' in length beginning in the front yard going down the south side property line. Violates SEC. 509.5c Fences and walls shall be a maximum of 4 feet in height in any front yard and no more than 6 feet in height in any side or rear yard.

Zoning Inspector Tim Kearns was sworn in. He read the variance request and violation and presented photographs showing where the proposed fence would be located. Mr. Kezdi asked for clarification on the distance of the neighbor's fence from the property line. Mr. Kearns thought it would be a foot away.

Todd Petersen, representing Louis Orazem, was sworn in. Mr. Petersen explained Mr. Orazem wished to erect an 8-foot tall fence 80 feet long. He pointed out that the neighbor's fence is 91 feet long and also 8 feet high. He explained that the relationship between the two has been strained over the years. Mr. Petersen commented the fence would be one foot off the property line and the Banfield's may be a foot off the line. He went on to say that Mr. Orazem has had the fence purchased for years, but because of a dispute regarding the removal of a tree, it never went up. Mr. Petersen presented the receipt and showed a picture of the vinyl fence.

Mr. Petersen explained there have been disagreements regarding noise from a radio and the bouncing of a basketball. There have been numerous police reports. He showed a picture of the Banfield's fence and explained the fences would be back to back. It would not change the character of the neighborhood, but would hopefully be effective for noise control. Mr. Petersen said it is an unfortunate situation to the extent that an agreement was made several years ago for the Orazems to

put up a fence. Mr. Petersen offered that the erection of the fence would not impact the health, safety and welfare of the community. Mr. Orazem affirmed this statement.

Mr. Pilawa noted that the neighbor's fence went up before zoning. Mr. Petersen commented that if the Orazems put up a 4-foot fence the top of the neighbor's fence would be seen. Mr. Kezdi inquired if the new fence would be within two feet of the existing one and wondered how the Banfield's fence would be maintained. Mr. Petersen responded that right now there is a restraining order (ex parte) that they do not go on each other's properties. Mr. Petersen went on to say there was a temporary fence that was hideous and he made the Orazems take it down. When it was up, the Banfield's maintained their fence.

Mrs. Nolan asked if two trees would need to come down. Mr. Petersen asked Mr. Orazem and he responded "yes". Mr. Petersen commented it is very heavily treed. The Orazems have resided there 14 years and the Banfields in excess of 30 years.

Mr. Pilawa stated for the record that 42 affected property owners were notified. Many affected property owners approached the table to see the plans and photographs.

Donna Banfield, next-door neighbor residing at 13078 Treadway, was sworn in. She explained that back in 2012 they went to court and the Orazems were mandated by the court to put up an 8-foot fence; they did not do it. Attorneys contacted each other; the fence came in on a flatbed, but was never put up. They came home to see a tarp fence with 12 "Do Not Trespass" signs on it. They had their property surveyed and sent a note to the Orazems to cut the tree down. They then received a letter from Mr. Orazem that they were not going to cut it down. The Banfields then contracted with a fence company. Mr. Pilawa asked how far the fence was off the property line. Mrs. Banfield responded "16 inches". Mr. Pilawa asked if she has been able to maintain it. Mrs. Banfield responded "yes". She presented photographs.

Mr. Pilawa asked Mrs. Banfield if she objected to the request. Mrs. Banfield responded by asking why they would put up a fence when there was already one there. Mr. Pilawa asked if she were claiming that they do not have the right. Mrs. Banfield responded it was up to the Board. Mr. Pilawa explained the Board needs to consider factors, one of them being "will the neighbors suffer a detriment?" Mrs. Banfield responded she thought it would come up when they go to sell. Mr. Pilawa explained they would not need a variance to put up a 4-foot fence, they are asking to put up a specific fence. He felt the unintended consequence of winning would be they would put a 4-foot and then a 6-foot fence and he was not sure how that would work for their property value. Mr. Pilawa asked if she thought the problem could be relieved some other way and is she assuming they do not need the fence. Mrs. Banfield responded by asking why the fence sat there all that time they looked at a tarp fence. She commented that if the fence went up in 2013 they would not be here.

Mrs. Nolan questioned Mr. Orazem about being court ordered to put up a fence. Mr. Petersen explained there was another application in 2012 for a restraining order that is an ex parte; he explained for the record that when you show up you can get granted a temporary order then there has to be a full hearing. At the time of the full hearing, both parties worked out a handwritten agreement that probably had ten to twelve items. One of them was that the Orazems construct an 8-foot fence.

However, there was a disagreement about the responsibility for the tree. Mr. Petersen commented he got on the case four months ago, and in regards to the handwritten agreement, at some point the Banfields were ok with an 8-foot fence. Now they are in a situation because an ordinance for fencing went in. He pointed out that the Banfields would still see a board-on-board fence and it would be exactly the same height. They have amended the application to move it 18" off the line to allow air through. Mr. Petersen commented that people have different tastes in fences. There have been dozens of complaints about noise, playing basketball in the driveway; this may help alleviate noise.

Mr. Pilawa spoke to Mrs. Banfield reiterating that the applicant has amended the application to one and one half feet off the line leaving three feet between the fences. Mrs. Banfield responded that the Orazems were asked by the court and them to go on the other side of the tree. Mrs. Orazem kept saying it was because of the hill. Mr. Petersen responded there was nothing about the tree.

Michael Fedorko, neighbor residing across the street, was sworn in. He explained that anything that takes place on the Orazem's property he will see. He has travelled all over the world and felt that this scenario is something you would see in third world countries, not here and he questioned who would want to live there. Mr. Pilawa acknowledged that was a fair statement and repeated that if you need two fences to protect one from the other who would want to live there. Mr. Petersen asked how it affects health, safety and welfare. He has heard only about esthetics.

June Schiewe of 12102 Bradford lives next door to the Banfields. She questioned if a double fence would set precedence for the neighborhood. Mr. Pilawa again explained the general rule is every variance request rises and falls on its own merits; it does not necessarily have bearing, but he could not tell her it would not be considered. When asked what her view of the fence now would be, Mrs. Schiewe responded if she drove down the road she would see it but not from her property. Mr. Petersen explained this is not a variance for a double fence, and cannot set precedence for what already is permitted. He explained if someone drives down Bradford they could see the Banfield's fence looking north; but someone would have to turn down Treadway, go past the corner yard of Banfields and past their fence, and then look back to see the Orazem's fence.

Nancy Ondrejka of 13061 Stanfield lives directly behind the Orazems. She explained that seven to eight years ago, her son who lives on Bradford, was travelling at the time. His neighbor thought she saw movement in his house. So she called the Sheriff's department and they checked the house. She asked what they should be doing for safety precautions. Periodically they have had the deputy's saying there are young kids that will go in and take anything of value in an unlocked car. The deputy that came out that night said it is a nice neighborhood to do this in because kids will be dropped off on 44 so they can come down to the three cul-de-sacs and check houses. They can take cul-de-sacs to Bean or Stanfield and be picked up so the car never comes in the area. Dennis Pilawa asked what her point was. She responded she does not want two fences side by side for kids to hide between.

Donald Ondrejka (Nancy's son), of 12061 Bradford commented that with two fences next to each other there is no light in between, plants would die, and there would be washout with leaves, etc. He was curious about the ecological impact.

Mrs. Banfield explained they were advised to get a board on board fence to let air flow through. If they put the solid vinyl up there would be no air.

Mr. Pilawa said there is a request as amended in Case 16-09 for the installation of a privacy fence 8 feet tall and 80 feet in length. Mrs. Banfield asked how high off the ground the fence would be. Mr. Orazem responded four to six inches.

Danielle Pitcock moved and Gabe Kezdi seconded to grant the variance of 16-09 as amended. Upon the roll call members voted as following: Mr. Kezdi, yes; Mrs. Nolan, yes; Mrs. Pitcock, yes; Mr. Herringshaw, yes; Mr. Pilawa, no. The motion carried 4-1. They opted to not do the findings of fact at that time. Mr. Pilawa again explained if anyone were interested in an appeal it would start 30 days from the date of the approval of the minutes, on July 21st. Mrs. Banfield asked if it was possible to know why the Board voted as they did. Mr. Pilawa responded she would find out when the minutes are published.

CASE 16-10: William Santore Jr., 13393 Auburn Rd, Chardon OH- request to construct a 24' x 40' accessory building 18' from the south side property line. Violates SEC. 411 Minimum Dimensional Requirements - minimum side yard setback is 25 feet.

Zoning Inspector Tim Kearns read the variance request and violation and showed a picture of the proposed site. Todd Santore, William Santore's son, was sworn in. He explained his parents and the Sheehes recently bought and split the property between them, giving each 75 feet of frontage. His father is looking to put up the building 18' off of the line. He showed the proposed location. Mr. Santore pointed out it would be 210 feet off of Auburn Road and 183 feet from the north side property line. He said his dad had talked with the Sheehes and they had no problem with the building. Mr. Pilawa read a letter from the Sheehe's written June 12th saying they had discussed the project with Mr. Santore and were in support of the request. Mr. Pilawa explained it could not be evidence because it was not in the form of a sworn affidavit.

Mrs. Nolan asked Mr. Santore to explain something indicated on the site plan. Mr. Santore responded it was a stamped concrete patio with a waterfall. She had not understood what it was and did not realize it was permanent. She asked if the accessory building could be moved back and over. Mr. Santore explained there is a row of large pine trees he would have to take down.

Mr. Pilawa stated there were 43 affected property owners notified. Bill McCaffery, Auburn Road resident, wondered why he did not get notice. Mrs. Friebertshauser, BZA Secretary, explained she typically does a 1,000-foot radius. He did not object, but wanted to know what it was about. When asked what the building would be used for, Mr. Santore explained his Dad has a woodworking hobby. It would have power and water with two bays and an overhang.

Robert Lounsbury of 11075 Bridle Trail again asked what it would be used for. Mr. Santore reiterated it would be used for his dad's woodworking hobby and also to store a tractor, 4-wheeler, motorcycle, and combination storage. Mr. Lounsbury asked if he does it for a career. Mr. Santore replied "no, a hobby". Mr. Lounsbury expressed concern there are a lot of commercial buildings going up. Mrs. Nolan concurred it is a valid concern. She asked if there would be electric and water. Mr. Santore responded

he knew he is putting electric, but was not sure of septic in the future. Mr. Pilawa explained the Board believes Mr. Santore and that the building would not be used for commercial purposes, however, the variance goes with the property once sold.

Mr. Pilawa read the variance request for Case 16-10. Bobbie Nolan moved and Danielle Pitcock seconded that the variance in Case 16-10 to construct a 24 x 40 ft. building 18 feet from the property line, be granted. Upon the roll call all members voted yes, 5-0, motion carried.

CASE 16-11: Ronald Hamilton, 11635 Twin Mills Lane, Chardon OH - request to construct a 12' x 16' accessory building 13' from the east side property line and 24' from the rear property line. Violates SEC. 411 Minimum Dimensional Requirements - minimum side yard setback is 25 feet and minimum rear yard setback is 40 feet.

Zoning Inspector Tim Kearns read the variance request and violation and presented photographs. Mr. Hamilton was sworn in. He explained they live on a narrow corner lot. He would like to put the shed near the tree line rather than in the middle of the yard. Mr. Pilawa asked what the use would be. Mr. Hamilton responded it would be a potting shed to hold garden supplies for his wife; they use the garage now. Mr. Kezdi asked if there were any chance of moving it further south. Mr. Hamilton conceded there is room there, but it puts it in sight of the neighbors. It would not be seen in back. He added that the backyard is reasonably small compared to the front yard.

Mr. Pilawa stated for the record that 31 affected property owners were notified. Marsha Edwards of 11615 Twin Mills lives next door to the Hamiltons. She and her husband had no problem with the request and love their neighbors.

Mr. Pilawa reviewed the request. Gabe Kezdi moved and Jim Herringshaw seconded that the variance requested in Case 16-11 be approved as requested. Upon the roll call all members voted yes, 5-0, motion carried.

Before the next cases were started, Mr. Pilawa informed those present that he has served on several development, advisory and sports boards at Notre Dame; and it has been four years since his child has attended school there, but he is still involved. He asked if anyone wanted him to recuse himself from the Board. One audience member said that he would like him to. Mr. Pilawa also explained that it means with only four members a tie vote is a no vote. It was also asked if they would like to hear the cases all at one time. Brian Jones of 13422 Auburn Road said he thought he would like to hear them separate.

CASE 16-12: J. Greydon Petznick for Sisters of Notre Dame, 13000 Auburn Rd., Chardon OH - request to construct a 53'5" x 111'9" residence 72'5" from the road right of way (90 feet from the centerline). Violates SEC. 411 Minimum Dimensional Requirements - minimum setback from the road right of way in the Institutional District is 80 feet.

Howard Shergalis and James Greydon Petznick of RDL Architects, representing the Sisters of Notre Dame, were sworn in. Mr. Shergalis explained they have worked with the Sisters for two years developing the project. They held a neighbors' meeting last week to hear their concerns. He showed a

PowerPoint presentation and explained that in the future they would require a senior living complex. It would provide help for transitioning aging sisters and provide supportive housing as well as for the public. It would be a market rate product that would support the Sisters.

Mr. Shergalis identified building 1 as an assisted living facility; a step towards independent living, but still a group home for Sisters who want to live in a communal environment. Building 2 would be an apartment building three stories high with 80 independent apartments. It would be a residence for seniors who are basically independent, but would have congregate care, a dining room and physical therapy. A parking garage would be underneath. Mr. Shergalis explained the Sisters existing kitchen is deteriorating and would be replaced with a new commercial kitchen, that would service the existing nursing home, which is the reason for its location. The residents from the cottages (phase 3) could buy meals there too. Phase 3 consists of cottage clusters - single-family duplexes with two bedrooms, garages and a covered patio. Phase 4 is reserved for the future; it could be a senior center for residents and the general Geauga County area. That would be with full build out. Phase 1 would be the major phase and then the congregate care building (apartments) and some cottages. The rest of the cottages would be built as rented. The fourth component may or may not be built.

Mr. Shergalis explained the cluster cottages would be built to face each other. He showed views looking south and pointed out the swale, which is wetlands. The idea is to have the cottages close to the apartments to allow people to walk there. It would have activity rooms, a bistro and physical therapy. The location was chosen because of the topography. It would be a zero step campus with no barriers for wheelchairs. They also wanted to have a separate entrance. They did not want to clear cut any trees but preserve the woods and open space.

Mr. Shergalis explained the initial design only required one variance for height, but with the wetland survey, the plan was adjusted. He felt the variances enhance the project. He pointed out on the map that to preserve the wetlands they moved towards Auburn (Case 16-12). The cottage in violation would be further back than the existing farmhouse to the north; and nearby homes are 75 to 100 feet back. He said that due to a quirk in the code, Section 406 Institutional District talks about 200 feet and Section 411 says 80 feet. They are asking for 72.5 feet from the road right-of-way.

Mrs. Nolan asked Mr. Shergalis where they would be starting the cottages. Mr. Shergalis responded they would start in the back unless all were rented right away.

Mrs. Nolan stated for the record that 39 affected property owners were notified in all of the cases for the Sisters of Notre Dame.

Robert Lounsbury, resident on Bridle Trail, asked how many residents live there now and how many are to be provided for. Mr. Shergalis responded that currently there are 172; and there would be 80 apartments, 50 in the cottages, and 36 in assisted living. Mr. Lounsbury felt it looked like a huge residence and there would be no income from the tax base for Munson. He was concerned with the affluent from the homes. They are a farming residential community turned into a huge right of way on Auburn Road. With their nice quiet neighborhoods he is concerned about lights; and pointed out the township already has Heather Hill and The Liberty. He added the wetlands would be broken up. Mr. Shergalis asked him why he thought they would be broken up. Mr. Lounsbury commented on where

the wetlands flow. Mr. Shergalis asked him if he was a civil engineer. Mr. Shergalis explained their intention is to preserve the wetlands. They are allowed to mitigate a certain amount and are enhancing the property. He pointed out it is zoned for all the proposed uses and the Sisters are entitled to use the property for their needs.

Eric Bergsman of 11300 Sutton Place commented he believes they are entitled to a state of the art facility, but wondered when Notre Dame became a housing development. A lot of the housing would be for retiring clergy but also open to the public.

Robert Schaffer of 10889 Bridle Trail thought the Sisters were being disingenuous. He had no idea of the project until last week. They moved to Munson for a country lot and felt property values would go down.

Mike Malainy of 11155 Bean Road said he purchased a lot on Bean Road from the Sisters and paid 12% over the market value. He explained he had a hard time obtaining a loan but the bank said it had a sweeping view and gave him the money. He built on top of a hill and the entire back of his house is glass and overlooks the field of the proposed site. He felt the height would take away from his view and would look like a city. Mr. Malainy explained he looked a long time for property and they put deed restrictions on him. He mentioned the bright lights from the preschool cast a shadow, but acknowledged they were there first. He added that with a commercial kitchen there would be semi trucks delivering supplies, and there are already lines of traffic when school is in session. He said he would never have built there. He is 33 years old and has been there a year.

Ray Gotliebowski of 10640 Butternut Road commented he found out about the project through the mail. He felt that as soon as commercialized, from a business standpoint, there would be a constant cycle of problems. He said he and his neighbors could put together 70 acres for sale on the backside of Notre Dame, all wooded; he has five out of five landowners ready to make a deal for 12% over market value. Mr. Shergalis commented he should make an offer to the Sisters. Mr. Shergalis added they had invited 180 neighbors to the open house. Mr. Gotliebowski asked about the septic/sewage system. Mr. Shergalis responded they already have one north of the drive off of Auburn.

Marie Fill of 13166 Paddock Drive commented she is a Catholic so what she had to say was not a personal attack. She is a lifelong resident of Geauga County and Munson will be their forever home. She was concerned with the lighting and felt they needed to have more details. She commented there are never any better neighbors than nuns and does believe they need a better facility, but not to this scale. She questioned if it would be open to other residents, and if so, wouldn't it change from Institutional to Commercial? She asked if a Certificate of Need were filed.

Sister Margaret Gorman commented that their center on Auburn Road is for administrative, retirement and health care. They expanded their health care 16 years ago and it is already full. They have been involved with the Department on Aging and United Way and the greatest needs are for housing for senior citizens. She explained that Geauga County is the fastest aging county, which was part of their reasoning for the project; they did not want to build for their own needs. They conceived it as a service to Geauga County so people who are lifelong residents can stay here. She went on to explain they also

value the rural area and it is sacred to them. It took them two and one-half years to find a way of serving elderly needs while also preserving the rural character.

Ethel Pikus, resident on Boulder Glen, commented that she moved to Munson when Butternut was a dirt road. She was 32 years old and is now 81. Her husband is buried at Maple Hill Cemetery. She was delighted the Sisters are welcoming the seniors of Geauga County. She felt the Sisters are not going to do anything bad, and are good neighbors. She does not want to have to move out of the neighborhood.

Mitchell Behnke of 10642 Butternut was concerned because his property is in the wetland area and water flows within 35 feet of his property. With extra pavement going in, he felt it would endanger his property. Mr. Shergalis explained the project is planned by code and engineering design and there would be no uncontrolled flow. There would be a retention pond. An unidentified resident commented that when they lived in the Heights and built Beachwood Place it flooded.

Vince Fioritto moved to 11060 Bridle Trail four months ago. He felt the Sisters were asking for a tall building.

Bob Fill of Paddock Drive questioned what the Institutional District encompasses. Mrs. Nolan read from the resolution, "The Institutional District is established to provide for the lifestyle needs of elderly persons and to enable elderly persons to obtain suitable, safe, sanitary and cost-effective housing and related facilities which are designed to meet their special needs with respect to: the location of buildings, the relationship of such buildings to one another, the design of dwellings, parking needs, the needs or desire for congregate dining, recreation, and/or continuing health care facilities. Mr. Fill questioned if they could be tax exempt.

Mrs. Nolan asked if anyone had anything new to say because she wanted the Board to recess. Mr. Fill referenced the earlier variance heard that evening regarding the fence and asked about adjoining properties being affected. Mrs. Nolan explained there are Duncan factors that will be taken into consideration.

Brian Jones questioned the market rates for rentals and wondered what would stop plans for Hud or tax credit. Mr. Shergalis responded there is no mechanism to convert to tax credit.

Maria Fill asked again about a Certificate of Need. Mr. Shergalis explained it is only required for nursing homes not assisted living.

The Board recessed at 8:53pm and the hearing resumed at 9:06pm. Mrs. Nolan explained the Board needed to discuss the zoning resolution because there are two conflicting sections. In the Institutional District there are setbacks for 200 feet; in Section 411 Minimum Dimensional Requirements the Institutional setbacks are 80 and 100 feet. The Board felt they needed to have an interpretation from legal counsel and were going to continue the cases for at least a month.

Bobbie Nolan moved to continue Cases 16-12 through 16-19 for the Sisters of Notre Dame until clarification as to interpretation of setbacks in Section 406.4c and Section 411 Minimum Dimensional

Requirements on page 4-19. Mr. Pilawa clarified not to interpret but to determine which two takes precedence if either. Danielle Pitcock seconded the motion and upon the roll call all members voted yes, 4-0, motion carried.

A resident asked that given either regulation would they still require a variance. Mrs. Nolan responded "yes".

Mr. Lounsbury commented that maybe there is a more basic issue about what the variance should be requesting. He felt this would be a business as far as what they are trying to do and asked if the zoning were correct and if this was outside of the definition of the property. In the reading of descriptions for the variances he inferred it almost sounded exactly like it had been rewritten for what they want to use it for. Mrs. Nolan responded it was not rewritten. Dennis Pilawa was sworn in. He has lived on Wellesley Lane since 1985 and felt Mr. Lounsbury made an excellent point. He explained that as he viewed it, it is not a use variance; they are entitled to the use. As he viewed the ordinance now, it is not a use variance, because the Sisters of Notre Dame are entitled to the use of the property in the fashion that they propose; it really is an area variance. However, he felt in terms of Mr. Lounsbury's challenge to what they are seeking; anybody's challenge to what they are seeking could be based on the use of it, but this is not the forum for that. He understood what Mr. Lounsbury's point was; that it really should not be Institutional because it does not fall within the definition of the ordinance but it does. Mr. Lounsbury commented that if he wanted to take his property and build a grocery store he would have to come in front of some board and rezone it or be granted permission to use it for something else other than what it is zoned for. He did not know what forum that would be. Mr. Pilawa advised he would have to go to the Zoning Commission to get the zoning ordinance changed, which would then be passed by the Trustees. He explained the Board of Zoning Appeals does not write the regulations or enforce them; they interpret. He went on to explain that the Board is being asked to interpret two conflicting provisions within the zoning regulations. The Board is being asked to choose one over the other and they do not have the authority to do so. It still needs a variance but it is dependent upon the facts to apply against which part of the zoning book.

Mr. Gotliebowski asked when the project would start and be completed. Mr. Shergalis responded they would start in the fall and it would take 16 months to build. Mrs. Nolan asked if they had all the permits needed. Mr. Shergalis responded they are waiting until the variances are granted.

Mr. Fill questioned if it gets to the point where there are empty facilities and cottages and they decide to bring people in to live there to rent who aren't nuns, and it's supposed to be a senior community, would they limit outsiders to seniors, or would they open it up to families. Mrs. Nolan did not know and as a zoning board they could not answer that. Mr. Shergalis said he could suggest an answer. The zoning ordinance clearly states lifestyle for elderly residents so it would be up to the zoning inspector to enforce that because they would not be allowed to by definition. He went on to explain it would be jointly managed with the Jennings Center for older adults in Garfield Heights, which is another Catholic organization. He offered another point about the business aspect of it; it's interesting because the Institutional District does include elements – they do have a school and a nursing home, and some other occupancies that do generate income now. Therefore, it is not foreign to say it is sort of implied that you are going to have a community that provides housing and needs for the elderly and that they have to be paid in some fashion. Mr. Fill felt it seems like with the people that live there (the nuns),

and the people who go to school there, that money is spent there and inclusive. Whereas if you start bringing people in from the outside who don't go to school there, who aren't nuns, that becomes a profit margin. Mrs. Nolan explained that was something to be decided in another venue.

Mr. McCaffery asked if there would be a notice posted in the paper and how would he know about it. It was explained all variances are posted in The Maple Leaf in the legal section the first Thursday of each month. The next meeting will be July 21st and that would be the soonest they will be hearing these cases.

Mr. Pilawa supplied the findings of fact for Case 16-09: I think that we have found that even though there can be a beneficial use to this property in the absence of a variance; and that this variance may be substantial, the essential character of the neighborhood is not changed, particularly in view of an 8-foot fence that is 16 inches off the property line; as a result of that, the adjoining properties, the essential complaining party, would not suffer a detriment; and there was some suggestion about the Sheriff making comments but there was no evidence for use that suggests the delivery of government services would be adversely affected by putting up a second fence that would be 34 inches from the existing fence. I don't think there was any evidence with regard to whether the predicament could be feasibly relieved through some method other than a variance. Mrs. Pitcock didn't think there would. Mr. Pilawa added that in fact he thought all the evidence was that the problems are not solvable at all. He did not think there was any violation of the spirit and intent of the zoning ordinance particularly in view of the fact that there is already a fence that exceeds permissible zoning 16 inches off the property line. And then finally, I find whether he took on that property with knowledge or with no knowledge of the existing zoning in the books is immaterial under the circumstances.

The meeting was adjourned at 9:25pm.

Robbie Lee Nolan 7/21/16
Dennis Pilawa, Chair Date

vice chair

Paula Friebertshauser 7-21-16
Paula Friebertshauser, Secretary Date