

Board of Zoning Appeals

Munson Township

Minutes of June 27, 2019

Chair Dennis Pilawa called the meeting to order at 6:30pm with Danielle Pitcock, Gabe Kezdi, Joe Tomaric, Alternate Jim O'Neill, Secretary Paula Friebertshauser and Court Reporter Laura Ware present. Don Alexander and Alternate Tim Kearns were absent. The Pledge of Allegiance was said.

Joe Tomaric moved and Gabe Kezdi seconded to approve the minutes of May 15, 2019 as written. Motion carried, 4-0.

Mr. Pilawa 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.

CASE 19-03: Christopher Scanlon 10120 Wilson Mills Rd, Chardon OH - requests to locate a pool 9' from the rear property line and a pool shed 13' in front of the home. Violates SEC. 411 Minimum Dimensional Requirements - minimum rear yard requirement is 40 feet; and SEC. 509.2 (in part) no garage or other accessory structure shall be erected within the front yard of any district.

Mr. Pilawa read the variance request and violations. Zoning Inspector Jim Herringshaw was sworn in. He explained the photographs he had taken and informed the board that the home, built in 1974, and the structure, was issued a zoning certificate. At the time there was no GIS/Realink to verify/show the property lines. The property behind the Scanlon's extends up to Stonegate Drive. He added that the cut grass makes the yard appear larger.

Christopher Michael Scanlon was sworn in. He explained it is an odd lot. When they purchased the property, they thought they were buying it with the yard pictured. They had large ash trees that died which gave them the idea to put a pool in between the structure and home. He mentioned that his neighbor was present and there is plenty of distance between them. Mr. Pilawa asked when the property was purchased and if it was surveyed. Mr. Scanlon responded they purchased the property in November 2008 and he did not know if it was surveyed. He said the appraisals they have received have been drive-bys. When asked, he thought he purchased title insurance. They also found out they have a triangular sliver of property that was purchased because of the septic.

Mr. Scanlon further explained that the proposed structure in front of the home would not be visible from the street because there is a ravine and woods. Mr. Herringshaw confirmed he took the picture from the road.

Mr. Tomaric complimented Mr. Scanlon on his presentation.

Mr. Pilawa stated for the record there were 25 affected property owners notified in this case. Alan Fox of 10078 Wilson Mills Road was sworn in. He explained that the sliver of property purchased by the previous owner was because after the house was built and the septic system in, part of the septic was on the neighbor's property. The property to the rear of Mr. Scanlon is a large L-shaped lot on Stonegate. Mr. Fox is the most affected property owner. He had no problem with the variance request and said he would not see anything. He mentioned that any improvements to be made would need a variance. Mr. Fox said he himself is too close to the road. He fully supported the request.

Jim O'Neill moved and Joe Tomaric seconded to approve Case 19-03 as written. Mr. Pilawa commented that based upon the body of evidence most all the Duncan Factors have been met. He explained the case for the Duncan Factors and added that none of them are more important than the other. Discussion following the motion included: the hardship is unique to the property given how constructed; and even though there is a beneficial use, it is not significant; the variance is not substantial; the request will not alter the essential character of the neighborhood; adjoining properties will not suffer a detriment as the neighbor is present; the delivery of government services will not be affected; the spirit and intent behind the zoning, would be observed and substantial justice done; and whether the property owner purchased the property with knowledge of the zoning no one had knowledge of the property lines including the banks. Upon the roll call, members voted unanimously to approve the variance, 5-0. Motion carried.

CASE 19-04: Debora Jones, Parcel #22-011900 Sherman Rd, Chesterland OH - requests to create a parcel with 60' of frontage and keep an existing shared driveway 0' from the lot line. Violates SEC. 411 Minimum Dimensional Requirements - minimum frontage at road right-of-way is 250' in R3 District; and SEC. 511 Driveways (in part) driveways shall be a minimum of 15' from any lot line.

CASE 19-05: Debora Jones, 9816 Sherman Rd, Chesterland OH - requests to create a parcel where the existing accessory building will be in front of the home, and keep an existing shared driveway 0' from the lot line. Violates SEC. 511 Driveways (in part) driveways shall be a minimum of 15' from any lot line; and SEC. 509.2 Accessory Structures (in part) no garage or accessory structure shall be erected within the front yard of any district.

It was mutually agreed to hear Cases 19-04 and 19-05 together. Mr. Pilawa read both legal notices and violations. Zoning Inspector Jim Herringshaw explained he had first talked with Mr. Jones and then the Planning Commission. The appellant would like to down-size and build a home in the back. They had originally come in for a variance for the accessory building, but now would like the barn to go with the home. The driveway has an easement for a gas well, and with a wide ravine, it would be hard to put in another driveway.

Debora Jones was sworn in. She explained they renovated the house on five acres. There was a separate L-shaped parcel which brings them up to 25 acres. Because of the easement for the gas well, there is no other way to access the back of the property. The benefit to have the barn on the same property as the house would still keep it at 5 acres with the split. They would like to downsize and build

a house in the back. They did a lot of research and obtaining a variance is the first step in the process. Mr. Pilawa asked Mr. Herringshaw what the feedback was from the Planning Commission. He responded that it was thought doable.

Irene McMullen of 9744 Sherman, affected property owner to the west, was sworn in. She said it was a unique property. Glaciers cut through both of their yards and with any increase of impervious surfaces and the topography are unique concerns. She felt it is an important value to keep families together and anything the community can do to keep families together is advantageous. Mr. Pilawa verified with her that she felt the essential character of the neighborhood would not be altered or suffer any detriment, and that the spirit and intent would be done in granting the variance for the township as a whole. Mrs. McMullen responded "yes".

Mr. Pilawa stated there were 42 affected property owners notified. There was no further public comment. Mr. Pilawa explained it is the Board's experience that if people do not show up they are not against the variance.

Danielle Pitcock moved and Gabe Kezdi seconded to approve the variance requested in Case 19-04. Upon the roll call, all members voted unanimously to approve the variance, 5-0. Motion carried.

Gabe Kezdi moved and Joe Tomaric seconded that Case 19-05 be approved as requested. Discussion following both motions included that there could be a beneficial use but the variance is not substantial and all the other Duncan Factors have been met. Upon the roll call, all members voted yes, 5-0. Motion carried.

CASE 19-06: Sandra Royle, 11651 Lake Rd, Chardon OH - requests to construct a front porch addition 41' from the road right-of-way and 18' from the south side property line; a patio addition 23' from the north side property line and 6' from the south side property line; and a driveway extension 4' feet from the south side property line. Violates SEC. 411 Minimum Dimensional Requirements - minimum setback at road right-of-way is 80'; side yard setback is 25'; 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 Jim Herringshaw explained that the property owner also owns a sliver of property (.08) which adds a few more feet. Mrs. Royle lives in the house to the south. The appellant to the north may have a similar situation. He explained the pictures and mentioned the proposed driveway would be similar to that of the Royle's.

Sandra Marshall Royle of 11625 Lake Road was sworn in. She explained the home was built in 1953 and would stay in the same footprint. They want to add a second story, a 6' x 10' front entryway, extend the patio across the back of the home with a roof, and add onto the existing driveway bringing it in front of the home making a "U". She explained the home has a full basement and good bones. She added that the ladies on the north side will have to tear down their home.

Mr. Tomaric questioned if the neighbors to the north demolish their home would there be some side setback and wondered if there would be enough room for the Fire Department to access the rear of the home. He thought it might be a concern in the future. Mrs. Royle commented it would be a smaller

house and doubted they would bring a structure any closer. Mr. Herringshaw also felt they would stay close to the existing footprint. Mr. Pilawa suggested that when they come in, someone should check with the Fire Department.

Mr. Pilawa explained that historically, every time someone would want to do something within the Bass Lake community, it was construed they were increasing the nonconformity no matter where the addition would be. That has since changed.

Joe Tomaric moved and Danielle Pitcock seconded that Case 19-06 for Sandra Royle at 11651 Lake Road be approved as written on behalf of Lisa Brown. Mr. Pilawa felt there was no need for discussion as most of the factors had been met. Upon the roll call, all members voted yes, 5-0. Motion carried.

The meeting was adjourned at 7:36pm.

Danielle Pitcock co-chair 7/18/19
Dennis Pilawa, Chair Date

Paula Friebertshauser 7/18/19
Paula Friebertshauser, Secretary Date