

Board of Zoning Appeals

Munson Township

Minutes of June 18, 2025

Chair Dennis Pilawa called the meeting to order at 6:39pm with Danielle Konrad, Don Ondrejka, Jim O'Neill, Joe Tomaric, Alternates Roger Simpson and Carol Maver, and Secretary Paula Friebertshauser present. Court Reporter Lynn Regovich was present. The Pledge of Allegiance was said.

Chair Pilawa explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. He explained the difference between use and area variances. 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 file with the Court of Common Pleas within 30 days after the minutes of the meeting are approved. There is essentially a 60-day period, but the last 30 days is the important part.

Don Ondrejka moved and Jim O'Neill seconded to approve the minutes of May 21, 2025, as written. Motion carried, 5-0.

CASE 25-12 (Continued): Robert Brownlee, 11185 Elk Run, Chardon OH – requests to keep an existing driveway/turnaround approx. 0' from the west side lot line. Violates SEC. 511 Driveways (in part) Driveways shall be a minimum of 15' from any lot line.

Chair Pilawa explained that Case 25-12 was continued so that the applicant and affected property owner had time to work things out. He advised that they not rehash things that were brought up at the previous meeting but would take additional testimony from others. He read the variance request and violation and explained it is an area variance that requires the application of practical difficulty. The Duncan factors will apply to last month's testimony as well as any additional testimony.

Zoning Inspector James Herringshaw was sworn in. He explained that shortly after the last hearing Mr. Hoffmann called and told him a survey had been done that showed the turnaround area was 16 inches over the lot line. After that Mr. Brownlee called and wanted to amend the application because they had cut off the turnaround and it is 32 inches from the west side property line. Mr. Herringshaw explained that when the Brownlees built in 1977, there was no driveway regulation. Sometime between 1981 and 1986 the 15-foot requirement went into effect.

Chair Pilawa stated for the record there were seven affected property owners notified in Case 25-12. In view of the amendment from 0' to 32" the applicant and/or Mr. Hoffmann could have the opportunity to address the request.

Robert Brownlee explained that they had arranged Hazen Contracting to reseal the driveway. When the incident occurred, he told Hazen about it and asked them to remove four feet which cost a little over \$1,000.00. He has been filling in the area since. It had also been mentioned that some of the trees

along the property might be over the boundary line. His son cut down the first tree and is planning to cut a few more. They have tried to do what is in the best interest of both parties.

Kurt Hoffmann of 11165 Elk Run, explained he did due diligence and would like to request that the 15-foot setback be enforced because of increased liability; the risk of someone parking there (elderly); and the potential financial impact on a future buyer. Mr. Hoffmann said Mr. Brownlee had stated he was going to sell soon and with that the request would be in perpetuity. He added that if the variance is approved, he did not budget for the additional cost of a fence. The survey was an encroachment survey; he would be comfortable if it were moved back to the original drive. Chair Pilawa responded to Mr. Hoffmann that the Board does not have the authority to do what he was asking; they hear the variance request and apply what they need to apply.

Mr. Brownlee commented that any older person must consider the future. They have a beautiful piece of property they have taken care of for 47 years. He said Mr. Hoffmann asked for a meeting on a Sunday and requested they extend it another foot and a half but now has changed his mind. Mr. Hoffmann responded that they have done more due diligence since that conversation. They had a disturbing meeting with Mr. Brownlee's daughter who came over after the meeting and they were shamed; was told the neighborhood does not like their opinions and favored the previous owner. He was called a bastard. They and their business were threatened. Either the Brownlee's son or son-in-law said, "we have three acres – how can you be concerned". Mr. Hoffmann felt a mistake was made and should be corrected. Chair Pilawa was sorry that it happened but they could not address the conduct and/or word choice because the party is not present. They have the authority to grant or deny the variance but cannot solve neighborhood disputes. Mr. Brownlee explained their daughter is one of their confidants and the stress they are living under must have pushed her. He said she came out on her own and he did not condone her behavior. Chair Pilawa stated they would not be swayed either way. Rosemary Brownlee was sworn in. She told of 17 deer they had in their backyard and that one waved at her and the street should have been named Deer Run. Mr. Hoffmann apologized to Mr. Brownlee for any stress that was induced by the issue, he just presented the facts.

Chair Pilawa reiterated that the variance requested in Case 25-12 was amended to keep the driveway/turnaround approximately 32" from the west side line.

Roger Simpson moved and Don Ondrejka seconded to approve the 32" as amended for the variance request for Case 25-12 as stated. Discussion of the Duncan factors were as follows:

Can there be a beneficial use? As noted there could be, but this would make it more convenient.

Is the variance substantial? No, it was amended to make it less substantial.

Will the essential character of the neighborhood be altered? A lot of people have turnarounds and it has been there since 2007. The zoning regulations allow for the variance process.

Will adjoining properties suffer a detriment? There have been concerns, but it has been discussed it is not as substantial.

Will the variance adversely affect the delivery of government services? No, it provides a turnaround for services.

Can the predicament be feasibly relieved through some other method other than a variance? Based on the amendment it has been remediated to some extent.

Will the spirit and intent behind the zoning be observed and substantial justice done by granting a variance? Yes.

Did the property owner purchase the property with knowledge of the zoning restriction? It did not exist back in the 70's.

Chair Pilawa added that the variance was not substantial since 2007 but was brought to the zoning inspector's attention by the new neighbor; he did not receive complaints. Mr. Brownlee changed it a bit, but it has been the essential character since 2007; the prior adjoining property owner was fine with it since 2007; and the property owner not knowing the zoning restriction is a legitimate no. It seemed to him that it calls for granting the area variance because they have met seven out of the eight factors. The Board is required to consider all of them but not give equal weight. Mr. Simpson added that the Brownlees put effort into getting it off the property line. Upon the roll call, members voted unanimously to grant the variance, 5-0. Motion carried. Chair Pilawa commented that he understood Mr. Hoffmann's stance but appeals are not easy to get overturned.

Member Joe Tomaric served on the remaining two cases.

CASE 25-16: Daniel Cicchella, 11688 Maplewood, Chardon OH – requests to construct a 12' x 12' accessory building approx. 70' from the road right-of-way and approx. 25' from the rear property line. Violates SEC. 411 Minimum Dimensional Requirements – minimum setback from the road right-of-way is 80' and minimum rear yard setback is 40'.

Chair Pilawa read the variance request and violations. Zoning Inspector James Herringshaw referred to the site map and mentioned that the applicant lives in Bass Lake community where there is typically not enough land though Mr. Cicchella has more than most. He has previously come before the Board. Inspector Herringshaw referred to photos taken showing the proposed location, towards the neighbors to the south, from the road and towards the road. Chair Pilawa mentioned that the Bass Lake community predates zoning; they were initially all cottages.

Daniel W. Cicchella was sworn in. He explained the accessory building would be used for storage of mowers, blowers, chainsaws, etc. Some of the stuff is under tarps now and near his wife's car. It would be one-story with no electricity or heat. He would build it himself.

Chair Pilawa stated for the record that there were nine affected property owners notified in Case 25-16. Ellen Comeau of 11700 Maplewood was sworn in. She said they moved there six years ago and live next door to the east. They love living next door and many neighbors have a mixed use shed. They have no objection. Chair Pilawa asked her the following questions to address the Duncan factors:

Did she feel the variance was substantial? No.

Would the essential character of the neighborhood be changed? No.

Would adjoining properties suffer a detriment? No.

Would the delivery of government services be adversely affected? No.

William Comeau of 11700 Maplewood was sworn in. He reiterated Ms. Comeau's comments and said he is the property owner.

Don Ondrejka moved and Joe Tomaric seconded that the variance requested in Case 25-16 be approved as written. Chair Pilawa said it appears the Duncan factors have been well met. Mr. Tomaric added that it is in a good location behind the front of the home and being in Bass Lake community not too many people can place things in a good location. Upon the roll call, members voted unanimously to grant the variance, 5-0. Motion carried.

CASE 25-17: Kevin Koch, 10305 Butternut Rd., Chesterland OH – requests to keep attached garage (under construction) approx. 50' from the road right-of-way. Violates SEC. 411 Minimum Dimensional Requirements – minimum setback from the road right-of-way is 80'.

Chair Pilawa read the variance request and violation. Zoning Inspector Herringshaw explained that Mr. Koch came in a couple of months ago for the garage to be in front of the home. He drove by and it appeared to be closer. He stopped and spoke with the Amish workers. It turned out to be 50 feet instead of 80 feet. There was confusion between the contractor and homeowner. In Middlefield they may measure from the middle of the road. He referred to photos taken from the north and south. Mr. Simpson confirmed that it was detached not attached.

Kevin Koch was sworn in. He felt Inspector Herringshaw covered everything. He confirmed it would be one story and eventually would have electricity but no heat.

Chair Pilawa stated for the record that there were seven affected property owners notified in Case 25-17. There was no public comment. He asked a resident in the audience what they were there for. Scott Miller of 10443 Mayfield Road was sworn in. He responded he was there just to hear what was going on. He said he has lived in the area for 22 years. Chair Pilawa asked him if he could ask some questions related to the Duncan factors. Mr. Miller responded to the following:

Did he feel the variance is substantial? No.

Would the essential character of the neighborhood be altered? No, he takes beautiful care and the property has been improved tenfold.

Would adjoining properties suffer a detriment? No.

Would the delivery of government services be adversely affected? No.

Danielle Konrad moved and Don Ondrejka seconded that the variance requested in Case 25-17 be granted as written. When asked if there was any further discussion, Mr. Tomaric commented that the Zoning Commission is responsible for setting up a series of laws on how Munson is to be developed; then the Trustees approve it. A lot of locations in Munson have structures that need to be located close but he thought in this case he already objected to the building in front of the home and believes the contractor should be held accountable. He drove up and down the road and nothing has a building in front of the house. The Board does not evaluate the architecture of the building but it can be seen on Mayfield and Butternut. The zoning board has setbacks to eliminate this. If it were smaller, it would not be as bad. He thought it is in violation of the code and did not think it should be there. Chair Pilawa commented there is no question Mr. Koch is in violation but the zoning resolution provides the opportunity to be here. The Board does not know the spirit and intent of the original drafters of the resolution but the best indication would be from neighbors themselves. When someone objects, they come out in droves. Chair Pilawa said he would rather be guided by people in the neighborhood instead of guessing what the original drafters had in their minds. Mr. Tomaric felt the contractor

should be held accountable. Mr. Miller commented that he is up and down Mayfield and Butternut Roads and felt it did not stick out and he did not notice it. He understood Mr. Tomaric's reasoning but felt it looked nice. Chair Pilawa added that is why no single case sets precedent for anything else. Carol Maver of 10492 Sherman Road was sworn in. She questioned that when something is constructed shouldn't the building department coincide with the zoning department. Chair Pilawa responded that maybe that should be the case but it's not. Often the zoning department does not know what the other department is doing. Inspector Herringshaw added that the Township deals with the area part, the building department deals more with electrical and the inspection of the building itself. He stamps the plans, and they get a permit for the location. Chair Pilawa said that ultimately the blame is on the property owner. Mr. Tomaric asked Mr. Koch if the 30-foot difference ever occurred to him. He responded no. He works full-time and it was put up quickly in three days. Mr. Tomaric thought the photos showed stakes of the location. In the original Case 25-04 there were no stakes pictured, just general photos of the area. Mr. Tomaric explained that he had just finished working on a project with a steel barn about the same size. When it was partway up, they misplaced the frame. He made them take them all down and do it right because as the contractor he was responsible. Upon the roll call, members voted as follows: Mr. Ondrejka, yes; Ms. Konrad, yes; Mr. O'Neill, yes; and Mr. Tomaric, no. Motion carried 4-1.

The meeting was adjourned at 8:02pm.

	
Dennis Pilawa, Chair	Paula Friebertshauser, Secretary
	
Date	Date