

# Board of Zoning Appeals Munson Township

Minutes of July 20, 2017

Chairman Dennis Pilawa called the meeting to order at 6:30pm with Bobbie Nolan, Gabe Kezdi, Joe Tomaric, Danielle Pitcock, Alternate Tim Kearns, Zoning Inspector Jim Herringshaw, and Secretary Paula Friebertshauser present. Alternate Don Alexander was absent. The Pledge of Allegiance was said. Court Reporter Kim Giel arrived at 6:56pm.

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. He informed those present that the court reporter was running late and the minutes would be recorded until she arrived.

Joe Tomaric moved and Bobbie Nolan seconded to approve the June 15, 2017 minutes as written, with a unanimous vote. Motion carried.

**CASE 17-06: Pete McDonald**, 11395 Sherman Rd., Chardon OH - request to construct a 1,536 sq. ft. two-story home. Violates SEC. 411 Minimum Dimensional Requirements - minimum square footage requirements for structures (two-story) is 1,800 square feet.

Mr. Pilawa read the variance request and violation. Zoning Inspector Jim Herringshaw was sworn in. When asked if anyone had called regarding the variance request, Mr. Herringshaw replied he had one call before the variance was filed because a resident on Falls Road had seen some stakes.

Pete McDonald was sworn in. He explained he grew up in the area and graduated from Chardon. His parents lived on the neighboring farm for 40 years and other family members own land from Sherman to Bean Road. They are excited to move from Cleveland to Munson and help carry on the farm work. He has worked on the home design for years with Dave Payne of Payne & Payne Builders who also is a childhood friend. He also worked with an architect professor from Kent State to plan a green building, and a landscape artist. He is asking to construct a home that is 264 square feet below the zoning requirement. Mr. McDonald felt his plans meet the spirit of the code. They wanted to invest 380 sq. ft. in porches, which does not count in the overall square footage, and in quality materials rather than space they do not need. The home would be energy efficient. They are also looking at potentially investing in solar panels which would face the south toward the woods. These would be part of an energy rater system. Mr. McDonald explained the farm land has been stewarded by his family and their home would be the only one in that area. They did not want it to impact their views and again felt that would fall into the spirit of the zoning code.

Mr. Pilawa asked what an energy rater is. Mr. McDonald responded that it is energy modeling; engineers look at doors, windows, HVAC, ceilings, etc. and do an energy model and come and check once everything is completed. They provide an energy rating. Lisa Cyrocky, Mr. McDonald's wife, was sworn in. She further explained that it is likened to an energy star rating which can go up to LEED level. They are looking at a base level for value and peace of mind. When asked, the McDonalds acknowledged the Board's approval is their last hurdle. They have driveway and septic permits already.

Mr. Kezdi asked what is preventing them from constructing a building that meets the zoning requirements. Mr. McDonald responded they are working with energy efficiency, and with the porches it would be cost prohibitive. They could build the additional square footage but it would not be what they want or need in space. Mr. Kezdi expressed concern with the property value of other nearby homes in that they are approximately 1000 square feet more in area.

Mr. Pilawa stated for the record that 15 affected property owners were notified in Case 17-06.

Nate McDonald, Pete McDonald's brother, was sworn in. He explained he and his family reside in the house their parents lived in for 40 years and are the closest neighbor. He felt the proposed home would be a beautiful smaller home with high quality values. His house is a century home and is only a little bigger.

Mr. Tomaric voiced the same concerns as Mr. Kezdi. He felt the vertical siding and metal roof would be quite different from the other homes in the area; and to add a little more than 200 square feet would not be much more to heat or add to expenses in the long run.

Resident Georgette Zifko asked to see a picture of the proposed home. Mr. McDonald explained to her the location would be west of the pasture and creek past the driveway that leads back to a pond.

Mr. McDonald addressed Mr. Tomaric's concerns by explaining he felt it is about the spirit and intent behind the zoning and he thinks it is a technicality because it's close to the square footage requirement. He felt he had a feeling as to the Board's outcome.

Mr. Pilawa explained it is built into Munson's zoning resolution that there is a variance process. Any thought in Mr. McDonald's mind because it's not this or that does not bar anyone from asking for a variance. It is impossible for the resolution to encompass everything. When the book was written cell towers did not exist. It's a question of relating the factors which allow for things may be accomplished that were not accounted for in the resolution.

Gary McDonald, Pete's father, was sworn in. He offered support of the proposal and felt they were close in meeting the zoning requirement. He felt expense is a factor and is important to consider, and to keep expenses down seems practical and wise. The house they are proposing is relatively close to the road and people will see a beautiful valley not obstruction. There are no houses in that region except on the north side at the top of the hill and a subdivision. He commented he would like to see zoning that minimizes the size of the homes because big homes can be a problem too. He felt it would be a nice looking home and would not affect property values.

Mr. Pilawa explained that the Board is conferring a property right that lasts forever. They typically consider what a subsequent owner could do which probably would not matter in this case because the family will be there a long time. Nate McDonald commented that in regards to property value, the difference in square footage is one factor but will the value be so affected that it is a deciding factor. The value of the house will be great for reasons like energy efficiency that go beyond square footage and people will want that more.

Mr. Pilawa explained that of the eight factors the Board gives consideration to, value is set forth and implied maybe in others. He noted that clearly neighbors have not shown up to voice concern.

Mr. McDonald wondered if it would be helpful for the Board to hear from David Payne. Mr. Pilawa responded that he could request a continuance but there would be a \$100 fee and property owners would once again be notified. He asked Mr. McDonald if he felt David Payne would say anything significant. Mr. McDonald did not. Mrs. Pitcock felt there had been enough said.

Danielle Pitcock moved and Bobbie Nolan seconded to grant the variance requested in Case 17-06. Upon the roll call, members voted as follows: Bobbie Nolan, yes; Danielle Pitcock, yes; Gabe Kezdi, no; Joe Tomaric, no; Dennis Pilawa, yes; motion carried 3-2. Discussion following the motion included: certainly for three people evidence was established and even though there is a beneficial use, the variance is not substantial; it is not changing the essential character of the neighborhood; all of the evidence received shows the adjoining properties won't suffer a detriment, but it may be a benefit of a technically sound family-kept property; there was no evidence that the delivery of government services would be affected; and in agreement with the applicant that it will be a well kept residential area in line with the spirit and intent of the ordinance.

The Board recessed at 7:17pm and the meeting resumed at 7:21pm.

**CASE 17-07: Kathryn Mullinger, 11260 Bean Rd., Chardon OH - request to construct a 24' x 18' detached garage 7 ft. from the west side property line. Violates SEC. 411 Minimum Dimensional Requirements - minimum side yard requirement is 25 ft.**

Mr. Pilawa read the variance request and violation. Zoning Inspector Jim Herringshaw presented photographs of the proposed site taken from several angles. He confirmed it would be seven feet from the property line that borders the Sisters of Notre Dame's pasture land.

Dan Mullinger was sworn in. He explained they would like to construct a two-car garage on the other side of the driveway pad. It would be built similar to the existing home right next to the driveway. The garage would be used to store cars and items from the basement allowing them to finish off that space. When asked if it would be heated, Mr. Mullinger was not sure, but stated it would not have full HVAC and plumbing, only electric. It would be 24 x 18 and built by Enzoco.

Mr. Pilawa asked what the existing three-car garage is used for. Mr. Mullinger responded they store two vehicles and a tractor.

Mrs. Nolan asked the reason for putting it to the side versus straight back. Mr. Mullinger explained there would be significant cost to put it towards the back because the property slopes. Also, his wife planted a maple tree there 17 years ago that has grown somewhat large, and to put a building there would disrupt the view of sunsets.

Mr. Pilawa stated for the record there were 21 affected property owners notified in Case 17-07. There was no public comment.

Mr. Pilawa asked Mr. Mullinger if he talked to his neighbors. He said he had spoken with Sister Gorman and Sister Pat and they were supportive of the request.

Georgette Zifko asked to see what they were building. She approached the table to see the plans.

Bobbie Nolan moved and Gabe Kezdi seconded to approve the variance in Case 17-07 requested by Kathryn Mullinger as written. Discussion following the motion included: although seven feet is substantial to the lot the property next door is institutional and negates "substantialness." Upon the roll call, all members voted yes, 5-0. Motion carried.

The meeting was adjourned at 7:35pm.

*Dennis M. Pilawa* 9/21/17

Dennis Pilawa, Chair

Date

*Paula Friebertshauser* 9/21/17

Paula Friebertshauser, Secretary

Date