

Board of Zoning Appeals

Munson Township

Minutes of July 29, 2020

Chair Dennis Pilawa called the meeting to order at 6:35pm with Danielle Pitcock, Don Alexander, Joe Tomaric, Alternate Jim O'Neill, Secretary Paula Friebertshauser and Court Reporter Sarah Lane present. Alternate Tim Kearns was also present. Gabe Kezdi was absent. The Pledge of Allegiance was said.

Mr. Pilawa explained the role of the Board of Zoning Appeals is to apply certain principles of law as required by the Ohio Supreme Court. He explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. The Board interprets the Zoning Resolution specifically on what is brought before them. 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.

Mr. Pilawa advised those present to limit their comments to three to four minutes and keep them relative to the use variance.

Joe Tomaric moved and Danielle Pitcock seconded to approve the minutes of June 17, 2020 as written. Upon the roll call all members voted yes, motion carried 4-0.

Continued CASE 20-02: Melanie Blasko for Lake-Geauga Recovery Centers, Inc. 12700 Ravenna Rd., Chardon OH – request to use an existing residence as a Level II Recovery House in a Residential District. Violates SEC. 401.2 R-1 Residential District Permitted Principal Uses and Structures – a recovery house is not a permitted use.

Mr. Pilawa read the variance request and violation. Zoning Inspector Jim Herringshaw was sworn in. He explained that the process began about 10 months ago. On October 9, 2019, he received two calls from residents that the property was purchased. On the same day, he had a visit from Mike Vatty Munson Fire Chief, his concern being if the home would be up to code for such use. He sent a letter in early November to Lake-Geauga Recovery. Ms. Blasko contacted him and he assumed they might be a licensed residential facility. She did not think they were. She also had thought the property was in Chardon. On November 8, 2019, he received an email confirming they were not a licensed facility. She asked him to contact legal counsel in regards to them being a protected class and the consideration they are a family. On November 21, 2019 Ms. Blasko had sent a letter to nearby residents for an informational meeting on Lake-Geauga Recovery Centers. On December 23, 2019, Ms. Blasko called and even though there was not an answer from legal counsel to date, she wanted to come in and fill out the variance application to meet the deadline for the January hearing. Mr. Herringshaw received counsel that while a protected class does not exempt them from zoning; they also did not qualify as a family per the Zoning Resolution.

James Gillette of 117 South Street in Chardon and legal counsel for Lake-Geauga Recovery, introduced Melanie Blasko as President and CEO and Van Carson as outgoing Chair, and two ladies that currently reside at the Ravenna Road property. He explained that the issue is can five unrelated adult women recovering from drugs and/or alcohol live together in a single family R-1 Residential District. He read the definition of family from the Township's zoning resolution that allows two unrelated individuals to dwell in the home.

Mr. Pilawa asked Mr. Gillette if his challenge was that of the decision of the zoning inspector. Mr. Gillette responded that they filed a variance request appealing his decision that it is not considered a single-family residence. Also, if five unrelated women are not considered a family unit they are entitled to a reasonable accommodation. Mr. Pilawa responded that would be a challenge to the zoning inspector's decision, but the Board does not have the authority to determine what constitutes a family. Mr. Gillette referred to the Memorandum in Support that was previously given to the Board and addressed the Board of Zoning Appeals jurisdiction. He read that any decisions of the Zoning Inspector are appealed to the BZA whether a variance or some other means it comes to the Board. Mr. Pilawa explained that was not what was before them; that would be a separate appeal. He was not sure what the challenge to the zoning inspector decision was. Mr. Gillette commented that if the Board believes the only issue before them is a use variance he would argue they are entitled to a reasonable accommodation for a protected class. He referred to the definition of protected class through the Fair Housing Act and explained that this class of women have all gone through treatment and have been sober for a period of time. He felt there was discrimination and this applies to governmental regulations determined by state or local government that shall not be conclusive. If a person is considered to be a recovering drug or alcohol user and that's the reason for discrimination – it is not legal under federal law. He cited the Ohio Fair Housing Act stating physical or mental impairment including drugs and/or alcohol substantially limits life activities. The premises at Ravenna Road would be available only to five unrelated women any one of which who would be terminated if found to be using. The Munson Township Zoning Resolution limits the number to two adults. Any restrictions by governmental entities should be guided by the Ohio Fair Housing Act. They are not required to be licensed or certified and may not be operated by the local board of mental health. He pointed out its important to consider the similar use of a licensed care facility. The O.R.C. dictates whether they are licensed and specifically states it is not required by a recovery house. 12700 provides recovery housing for five unrelated classes. He felt the Zoning Resolution discriminates. Susan Wieland, the Township's legal counsel, interrupted to remind him they are here for a use variance and should stay focused on that. Mr. Pilawa advised Mr. Gillette that if his argument was that the Zoning Resolution was discriminatory, the Board does not have the authority to change that. Mr. Gillette responded that their alternative is reasonable accommodation for five people that the use variance would allow. Mr. Pilawa commented that he did not think that is what is before them because he is using a comparison to another facility. Mr. Gillette explained if you consider an appeal for use variance you have to consider reasonable accommodation as a protected class under state and federal law. Mr. Pilawa responded that would be for the Court of Common Pleas to determine. Mr. Pilawa asked Zoning Inspector Herringshaw if the 20-day period of time to file an appeal had passed. Mr. Herringshaw responded yes. Mr. Pilawa then asked if anyone made an appeal of the zoning inspector's decision per the resolution and cited Section 1202 for notices of appeal alleging error by the zoning inspector shall be taken within 20 days and there is no evidence to that effect. The inspector's original decision is before the Board and the appellant's position is for a reasonable accommodation. Mr. Gillette asked Mr. Herringshaw if

he had ever received an appeal citing Zoning Inspector error before. Mr. Herringshaw said he did one other time and it was also well after the twenty days.

Melanie Blasko of 9083 Mentor Avenue was sworn in. As President and CEO of Lake-Geauga Recovery Centers, she explained that Lake-Geauga is a 501(c)(3) non-profit corporation and has been providing services in Lake and Geauga counties for 49 years. She read her testimony (see pages 1-4 attached as though incorporated herein).

Mr. Pilawa asked Ms. Blasko if when Lake-Geauga purchased the property was there any investigation into zoning. Ms. Blasko explained that they worked with the same realtor on all their homes but there was a different realtor for this property. Mr. Pilawa followed up by asking if she had to deal with zoning issues with the other homes. She replied maybe one or two. The home in Chardon was determined allowable because they are a protected class and allows five residents. Mr. Pilawa questioned that with her experience she would have to know she needs to comply with zoning. Ms. Blasko responded yes. He asked if the property was occupied when she purchased it. She responded yes. When asked if it were occupied by a single family, she responded yes. Mr. Pilawa pointed out the property could be reasonably used in an economically viable manner as a residence without a variance. He asked if the Board was going to get evidence that it could not be used in an economically viable manner. Ms. Blasko responded that if they are limited to two people they cannot run the house with just one paying rent and one house manager. Mr. Pilawa commented that the Board appreciates the work she does, but are looking for evidence to apply to the factors.

Ms. Blasko continued to read her testimony (Pt. II attached as though incorporated herein). She said there have not been any structural changes to the home. She had received a letter from zoning on October 28th advising her they may need a zoning certificate. After looking at ORC 5123.19, she advised Mr. Herringshaw they were not a licensed residential facility but a protected class. Mr. Herringshaw then sought legal counsel's advice. She had scheduled an informational session for area residents in which only four attended. On December 23, she filed a zoning certificate application and upon its denial, a variance appeal. Mr. Pilawa asked if she had counsel at that time. She responded no. He then asked if she had any evidence that the hardship was unique to the property. Mr. Gillette intervened by saying that 12700 is no different than any other residential single family home and has been used as a single family dwelling in the past.

Mr. Pilawa explained that for a use variance all factors have to be met. He read factor b. Does the zoning regulation deprive the owner of a substantial property right? His guess was the answer is no unless there is evidence presented otherwise. Mr. Gillette responded by saying they believe they are deprived of a property right. He reminded Mr. Pilawa that the Board may also include conditions and restrictions. Mr. Pilawa replied that he knows it's been tried but was not sure how successful it has been. Mr. Gillette explained that the property is no different than others in the R-1 District and if the Board looked at Exhibit 1 they would see it is practically identical. Mr. Pilawa commented that he views their job as very limited, and Mr. Gillette views it as more expansive.

Mr. Gillette then asked Ms. Blasko several questions. Is the premise at 12700 currently occupied? She responded yes and that two people are living there. If the property was permitted to be used, what are the consequences if rules are violated? Ms. Blasko explained that there are quality standards and

house rules. Lake-Geauga Recovery has incorporated those rules and protocols in all of their homes and read the guidelines. If rules are violated, they begin eviction proceedings. Mr. Pilawa interjected that the operation is not the issue. Mr. Gillette reconnoitered that he thought the Board needed to be convinced it is not a flop house. Mr. Pilawa did not see this as a factor; with a use variance there is a narrow inquiry. Mr. Gillette explained he does not take the narrow view and thought the material brought forth was relevant to the zoning inspector's decision. Mr. Pilawa countered that they do not view it as an appeal to the zoning inspector's original decision. He did not see anything that is a challenge to his decision and what Ms. Blasko just testified to did not relate. Mr. Pilawa read some of the factors for those present.

Mr. Gillette requested that the Board admit Exhibits 1 through 11 into the record. Mrs. Pitcock asked what Exhibit 9 showed. Ms. Blasko responded it is a camera that was installed on a tree pointing at their property. Exhibit 10 showed cars that parked outside the house almost daily in the beginning. Mr. Gillette asked her what the atmosphere had been like. She said that cars sat outside the house for days and large yellow signs were put up regarding the variance. She said there are no curtains downstairs and the occupants are afraid people are watching them. She added that Rosemary (House Manager) drove down Waterfowl Lane because she was new to the area and someone stopped her and said she was not allowed down there.

Mr. Gillette called up Jim Adams, CEO of Geauga County Mental Health. He is responsible for oversight of treatment and educational services. They are publicly funded. When asked if they provided treatment services he responded they do not. When asked if he contracted with Lake-Geauga, he responded they do. They are a community based continuum of care, treatment alone needs to be supplemented. When asked if they are mandated to administer elements of continuum of care per the ORC, he responded yes. When asked if a recovery house was one of them, Mr. Adams responded yes. When asked if he was familiar with the recovery house, he responded "just that it is there." He assisted in the grant process. When asked if there is additional funding, Mr. Adams explained there are criteria to be met and they have to continue to meet standards. Mr. Pilawa asked Mr. Adams who is involved in the efforts to help with the grant and do they address zoning. Mr. Adams responded that when the grant is written it is not written for a specific property. Mr. Pilawa then asked that when they get to the last step does anyone question the spending. Mr. Adams replied they are state dollars and there is a checklist, but he is not involved. They are a protected class. Mr. Gillette asked Ms. Blasko if she has received any money yet. She replied no they have been out-of-pocket expenses and they will not receive grant funding if the recovery house is not allowed there.

Patricia Kidd, attorney for the Fair Housing Resource Center in Painesville explained they receive money from HUD to enforce and investigate discrimination. She reinforced Mr. Gillette's argument that reasonable accommodation is not unusual and both acts say an accommodation has to be granted. She pointed out there are other single-family homes in the district with five unrelated people with no questions asked but members of a protected class are being treated differently. Mr. Pilawa commented that the great thing about being a lawyer is he understands what she is trying to do. He is in the position of a judge and what she is suggesting is the Board has to approve this automatically. Ms. Kidd added that there would be no extra cars, no change of use of the house, and there would be economic damages with only one occupant.

Rosemary Scribbs, house manager of 12700 Ravenna Road, had moved in in February. She explained she is a registered nurse and at 50 began drinking after she was diagnosed with cancer and her kids were gone. She had been in and out of the program and had been taken to the hospital with her liver shutting down. She was in a nursing home for six weeks and was told she was not going to live. She went to rehab and was at Oak House. She had lost everything and with no money, they let her in. She stayed for four months (three months is the average stay) and if it weren't for that opportunity, she would not be alive. Ms. Scribbs felt they are not wanted at this location and had license plate numbers of cars that were parked outside. She said with their address being put on signs all over the township it has been disheartening and felt they were being discriminated against.

Mr. Pilawa stated for the record there were 27 affected property owners notified. Mike Vatty, Fire Chief of the Munson Fire Department was sworn in. He noted that no one from the fire department had received a business plan to date or a description of the intended use of the property. He advised the Board that if the variance were to be granted, Lake-Geauga Recovery Centers should be required to apply for a Certificate of Occupancy and based on being re-classified, the 2017 Ohio Fire Codes would apply. He provided examples of what may be required per the fire code. He did state that the fire department does not inspect residential properties and if the occupancy is four or less the residential code applies. Chief Vatty referred to a pod cast that addresses code requirements for boarding and/or group homes which identify concerns they have. Mr. Gillette questioned Mr. Vatty in reference to his example of a business changing to an adult day care; he asked how many people were cared for. Chief Vatty responded there were twelve. Mr. Gillette asked if they were required to be licensed; Chief Vatty responded that he believed so. Mr. Gillette then asked if Lake-Geauga Recovery Center has more than five people and the fire department is required to inspect, he wondered if a single-family residence with five people needs to be inspected. Chief Vatty responded no. Chief Vatty commented that the fire department is contracted and paid for by the residents through their taxes. He explained that if the recovery home is exempt the financial burden falls on the residents. Chief Vatty presented the Board with code documentation. Ms. Scribbs commented to Chief Vatty that if she were to be taken to the hospital it would be covered by her insurance and would not fall on Munson.

Sarah Fetheroff of 12335 Waterfowl Lane was sworn in. She stated that variance application 20-02 must be denied because the use of the structure should be limited to its former use. It does not deprive the owner of a property right because they purchased the property without checking the zoning and she does not consider the hardship unique because Lake-Geauga Recovery did not do due diligence. Also, there would be increased traffic at the entrance to Route 44. Ms. Fetheroff explained that she and Ms. Blasko used to be neighbors and had a conversation in November of 2019 in which Ms. Blasko confirmed she thought it was a Chardon address because of the zip code. Ms. Fetheroff felt the property could be used in an economically viable manner without the variance as it could be sold to a family, and the proposed use does not compare with adjacent and nearby uses. Zoning is divided into regions for certain uses. Waterfowl Lane was established in 1998 as an R-1 Residential District. They have invested in their homes and Lake-Geauga will not support taxes. Residentially zoned property insures that it is compatible with neighboring properties. They purchased their home 21 years to raise their daughters and never dreamed that a home at the end of the street would be granted a business. She requested that if they were to remain there that there would be no signage relevant to the business and a privacy fence be put up on both sides with neighboring property approval. Mr. Gillette commented that in regards to her comment of traffic congestion at 44 there would not be any

additional traffic on the balance of Waterfowl Lane. He questioned if she really thought that five or six people would contribute significantly to the traffic. She said she did. He questioned her comment in regards to property value. She responded that the zoning rules and regulations help a residential area by preventing declining property values. Mr. Gillette asked when she learned of the recovery house. She responded after it sold; it was done indiscreetly. He asked her if she had her property appraised. Ms. Fetheroff replied no.

Edward Bushik of Bradford Drive was sworn in. He said there used to be cows where Waterfowl Lane currently exists before Ms. Fetheroff was there. He asked that the Board take a vote of the people present. Mr. Pilawa reminded those present that they are limited to issues pertaining to the use variance.

Kim Seredich of 12250 Waterfowl Lane was sworn in. She referred to Ms. Blasko saying she did not know the home was in Munson but a copy of the MLS printout and the legal description says Munson. Ms. Seredich addressed each of the factors: a. the hardship is not unique to the property by wanting a commercial business in a residential area; b. the zoning regulation does not deprive the owner of a substantial property right because the owner could use it as a residence; c. the property can be reasonably used in an economically viable manner if rented; d. the proposed use is the opposite of the current use; e. the hardship is self-induced because the need for a variance shows a lack of preparedness; f. the current zoning protects the health, safety and morals from a commercial use; g. will adjoining properties be harmed is a moot point – Ms. Blasko is a seasoned purchaser and ignorance is no excuse.

Jim Trzaska of 12750 Bass Lake Road just wanted it noted he agreed with Ms. Fetheroff's statements.

Bob, a recovering drug addict, said he had gone to a Lake-Geauga Recovery Center several times and they only require 30 days of sobriety. He felt as an addict, 30 days is not long enough to create a new lifestyle. He commended them for what they do, but was concerned it would affect his friend who is a neighboring resident, and his daughter who visits there. Lost needles or drugs could be picked up. He also voiced concern that the occupants cannot walk to a meeting if needed.

Carly Alison of 12700 Ravenna Road was sworn in. She identified herself as the current tenant. She explained she was at Oak House for three months. For people that really want sobriety such as her, this is something to keep them safe. She said she goes to meetings every day and also works.

The Board took a recess at 9:00pm. The hearing reconvened at 9:15pm.

Ms. Blasko referred to the earlier comment that 30 days is not sufficient. She said that they never admitted anyone at less than 90 days.

Kevin Campany of 12245 Waterfowl Lane asked Ms. Blasko if she was aware of the statistics after 30 days in her houses. Ms. Blasko replied that 67% of those who come are successfully transitioned into housing. The average in the state is nine months. He asked if any of her residents have had DUI's. Ms. Blasko responded that she was aware of only one at the Water Street address. Ms. Pitcock interrupted asking if his statements could be kept relevant to the use variance. Mr. Pilawa reiterated there are

eight factors to be considered. Mr. Company then asked how often the residents are drug tested. Ms. Blasko said it is random and depends on the individual. They have to comply with Ohio tenant laws. Mr. Pilawa commented that the tenant act is a result of the ORC and is separate. When Ms. Seredich asked how often the residents use EMS, Ms. Blasko responded they do like any other family would. Ms. Seredich wondered if Ms. Blasko made sure they all have hospitalization. She said they do not, but the residents are all working.

Amy Slack of 12295 Waterfowl Lane was sworn in. She purchased her property in September of 2019. She is a stay-at-home mom and knew where she was buying a house. She supports and applauds any person in recovery but questioned leadership not following rules. She asked what is to prevent future homeowners of making the property a rental and felt it would set a precedent. She was concerned Ms. Blasko's mistake was becoming their problem. She did not understand how it happened and while she is not there to discriminate, there are rules and codes. Mr. Pilawa again interrupted saying this is supposed to be about a use variance.

Regina Wagoner of 12691 Waterfowl Lane was sworn in. She lives across from the facility and when she pulls out she faces their home. She said all the properties meet local zoning and occupancy and they are not following the guidelines.

Doug Roderick from Ravenna Road commented they need to follow the code and there should be no variance. Mr. Pilawa explained that the zoning resolution provides for the variance process and asking for a variance is not contrary to code.

Joe Zuccaro of 12330 Waterfowl Lane, adjacent to the recovery house addressed the factors as follows: a. it is not unique to the property because it is a residential neighborhood not commercial; b. the zoning regulation does not deprive them of a property right because they could sell the property or rent it to a family; c. the property could be used in an economically viable manner without a variance again because they could sell or rent to a family; d. the proposed use does not compare with adjacent and nearby uses because it is a business not a single family; e. the hardship is self-induced – there are 12 properties they have purchased; and the surrounding residents are apprehensive. Mr. Zuccaro felt that with the non-disclosure agreement she knew it would not be allowed; f. the zoning regulations protect the health, safety and morals by setting aside residential districts from others. If they discard paraphernalia, children and pets could come into contact with it; g. he felt adjoining properties would be harmed financially living next door to a business; and h. it is his opinion that the property owner purchased the property with knowledge of zoning. She has a lawyer and he should have known it is not in Chardon. The house manager is an employee of Lake-Geauga Recovery and does not meet their definition of family. Mr. Zuccaro submitted copies of EMS records.

Mr. Zuccaro explained he owns the camera on the tree and it faces the street and is focused on the stop sign. He referred to the comment about cars parked outside and asked them to elaborate on that. Mr. Pilawa said it did not relate to the use variance.

Teresa Lanes-Turkish of 12290 Waterfowl Lane explained they researched their home before purchasing and felt the hardship was self-induced. She asked that Lake-Geauga not park on streets, the

number of people not be increased, no structures be erected, and there be no sign placement and no criminal records. Mr. Pilawa commented that the Board has limited authority.

Pat McHale of 12165 Waterfowl Lane commented that he opposed the variance. He felt there is a tremendous safety issue and the driveway should not be there. He felt they should just sell the home. Mr. Gillette asked him if it was his belief that the driveway goes to 44. Mr. McHale said it should but does not.

Bobbie Jo Freeman of 12690 Ravenna Road lives next door. She has a one-year old daughter and they never wanted to live by a business or multi-family home and would never have purchased their home if they knew. She pointed out that all of the other recovery home locations are in a city.

Sonja Siebert of 12170 Waterfowl Lane commented that Waterfowl Lane is their only ingress and egress. With the purpose of zoning being health and safety, she felt adjoining properties would be harmed, and near the recovery home's driveway is where children are picked up. She cited a police report in regards to Oak House. She submitted the MLS that shows Munson listed three times and felt the hardship was self-induced. Lake-Geauga Recovery has the ability to sell or rent the home. Ms. Blasko explained that occupants who relapse are given three days notice for eviction, some people leave on their own but she has not had a situation. They are on weekly leases.

Jamie Keyser of 12180 Waterfowl Lane has four young children and was opposed to the variance request.

Kevin Campany read an affidavit (attached as part of the minutes) and pointed out unsafe traffic patterns in regards to safety and runoff. Mr. Gillette asked Mr. Campany if he had investigated the grade at 12700 Ravenna Road. Mr. Campany said he had not, but observed it. Mr. Gillette asked him if he had requested traffic counts; Mr. Campany had not.

Chris Sabel of 12195 Waterfowl Lane explained he gets over 24 inches of water with a rain storm. He felt their lack of due diligence has put the people at risk. Mr. Gillette asked Mr. Sabel what has changed in regards to the flow of water since Lake-Recovery purchased the property. Mr. Sabel responded nothing.

Michael Seredich of 12250 Waterfowl Lane said he is opposed to the request and a commercial business should go on a commercial property.

Bill Gray of 12255 Waterfowl Lane has lived there since 1998 and was opposed.

Elizabeth Hagood, a resident on Bean Road, moved to Munson for safety. She was opposed.

Mike Turkish of 12290 Waterfowl Lane commented that Munson Township was the first township that had zoning. He felt the hardship is not unique to the property and Lake-Geauga is not deprived of property rights. The property can be used in an economically viable manner and nearby uses do not operate as low rent housing. The hardship is self-induced and adjoining properties would be harmed more than likely. Mr. Pilawa commented that it seem he had addressed all the factors.

Mr. Gillette referred to Exhibit 5, an email between Ms. Blasko and Jim Herringshaw, and pointed out that the issue has always been whether or not five unrelated women are a protected class. The BZA's jurisdiction is to hear and decide an appeal and error and to grant a variance when sufficient evidence is presented. He asserted that a request for a variance and notice of appeal were filed on December 23, 2019 and on that basis he saw no reason that the recovery house should not be permitted. A licensed care facility is a permitted use; a recovery house is no different. He referred to pages 12 and 13 of the submitted Memorandum of Support that provides guidance.

The hearing was recessed at 10:54pm and resumed at 11:09pm

Mr. Pilawa stated that it was the unanimous belief of the Board that this does not involve an appeal of the zoning inspector's original decision because it was not timely filed. Danielle Pitcock moved and Jim O'Neill seconded to deny the variance as requested in Case 20-02. Discussion following the motion included that there was a lack of evidence in regards to the factors to be considered. A use variance requires unnecessary hardship - a. there was no evidence the hardship was unique to the property; in fact, there is no hardship because it fits perfectly in the residential zone; b. the Board has been given no evidence that the zoning regulation deprives the owner of a substantial property right; in fact, that property can be used as it has been historically; c. it was conceded there was no evidence that it could not be used in an economically viable manner as there is no difference than any other in the residential district; d. 12700 is going to be used for weekly renters there is no evidence the area has a similar use; e. the hardship was self-induced; due diligence was not done. There were multiple opportunities to determine where this property was located. The hardship was not created by the zoning inspector or the zoning resolution; f. evidence was presented by the Fire Chief and residents although the zoning resolution is designed to protect the public health, safety and morals, the evidence presented was substantial; g. the Board did not receive evidence from the application that the residents would not be harmed and their property values affected; h. the property owner claims to have had no knowledge of the zoning restriction but as it were the Board did not find this credible. Lake-Geauga is a sophisticated organization and should have known the zoning when money is involved in a \$300K+ home, but the testimony was that they did not know so one of the eight factors was met. However, the Board needs evidence to all eight and just did not have it. Joe Tomaric commented that the house at 12700 Ravenna Road has successfully been in an R -1 residential district for many years. When purchased, it was to change the neighborhood to satisfy Lake-Geauga Recovery's needs which goes against the eight factors. Upon the roll call, all members voted 5-0 to deny the variance request. Motion carried.

The meeting was adjourned at 11:19pm.

	8/19/20		8/19/2020
Dennis Pilawa, Chair	Date	Paula Friebertshauser, Secretary	Date
Don Alexander, Acting Chair			

STATE OF OHIO

COUNTY OF Geauga

}
}
}

AFFIDAVIT OF Kevin J. Company

NOW COMES Kevin J. Company, who being duly sworn according to law, hereby states and avers as follows:

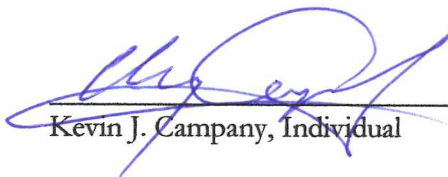
1. I, the Affiant, reside at 12245 Waterfowl Lane, Chardon Ohio 44024 with my wife and two daughters, and have lived at this residence since March 2002 (18 years).
2. I, the Affiant, have been a property owner and have paid real estate tax on property located in Munson Township for approximately 27 years, having moved to my first Munson Township residence with my wife in 1993.
3. As a resident of Munson Township and Waterfowl Lane, and as an effected property owner, I, the Affiant state my absolute opposition to the Use variance request submitted by Lake-Geauga Recovery Centers for property located at 12700 Ravenna Road, Munson Ohio to the Board of Zoning Appeals of Munson Township. I, the Affiant, base my opposition on the following reasons:
4. I, the Affiant, based upon information and belief, feel that granting the Use Variance for property located at 12700 Ravenna Road, Munson Ohio, will create congested and unsafe traffic patterns, on-site parking traffic issues, and storm-water runoff issues, which will individually or together further create life safety issues at the intersection of Waterfowl Lane and State Route 44.
5. I, the Affiant, have traveled Waterfowl Lane thousands of times during the time period of my residence there (both by foot and by car), and have again thousands of times traversed and navigated the intersection of Waterfowl Lane and State Route 44. In that time frame I have seen countless near misses at this intersection, which carries native residential traffic inbound and outbound for Waterfowl Lane, as well as significant traffic from a host of other sources including; School Buses, Garbage Trucks, Service and Landscape vehicles, test drives for our local car dealership, FEDEX delivery vehicles, US Mail delivery vehicles, Amazon delivery and emergency vehicles to name just a

few. Vehicles entering Waterfowl Lane from State Route 44 tend to do so at a high rate of speed, as the speed limit for State Route 44 at this intersection is 55 MPH. A vehicle going 55 MPH travels approximately 87 feet per second. At this intersection the speed limit for Waterfowl Lane is 25 MPH. A vehicle going 25 MPH travels approximately 39.5 feet per second. The only ingress/egress (driveway) for the property located at 12700 Ravenna Road, Munson Ohio is located approximately 135 lineal feet from the Center Line of State Route 44 on Waterfowl Lane (see map attached). A car entering Waterfowl Lane from State Route 44 will reach the driveway of 12700 Ravenna Road on average in less than 3.4 seconds.

6. I, the affiant, believe that increasing the permitted occupancy for the property at 12700 Ravenna Road (consistent with the requested Use Variance), and in turn the amount of vehicles entering and exiting this driveway will create a situation where transient residents, their visitors and even more service vehicles who are unfamiliar with the intersection, the driveway and its close proximity to State Route 44, will place themselves, their visitors, the residents of Waterfowl Lane and all persons who navigate the intersection of State Route 44 and Waterfowl Lane in grave danger. I believe that prior to even considering a Use variance for this property, it is the obligation of the Board of Zoning Appeals of Munson Township to obtain from ODOT or a similar independent provider a Data Driven Safety Analysis (DDSA) pertaining to the increased traffic and congestion which will be created in close proximity to the intersection of State Route 44 and Waterfowl Lane from ingress/egress to 12700 Ravenna Road, as well as potential on-street parking in close proximity to this intersection, and their combined impact on life safety.
7. I, the affiant, believe that allowing the residents of 12700 Ravenna Road and their visitors to park their cars on-street (on Waterfowl Lane), will significantly exacerbate the congestion, navigation and life safety issues at this intersection described in paragraph 6 above, which is also the exact location of a Chardon Local Schools bus stop for K-12 grade school-aged children. The Board of Zoning Appeals of Munson Township must not create a situation (by approving the Use Variance) which will further create a need for on-street parking due to a lack of on-site parking at 12700 Ravenna Road, which is currently insufficient to support the parking requirements created by the Use variance as requested. Prior to any consideration of a Use variance, the Board must first obtaining a DDSA as noted in paragraph 6 above.
8. I, the affiant, believe that in order to accommodate the level of on-site parking at 12700 Ravenna Road necessary to alleviate my concern in paragraph 7 above, and accommodate the parking

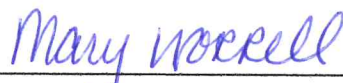
requirement inherent in such a Use variance, significant additional hard pan or paved surface area will need to be created on site. Creation of this additional hard pan or paved surface will create additional water runoff, which will directly impact S/L 16 Waterfowl Lane, and all downstream properties. Prior to approval of a Use Variance which would create a potentially hazardous storm water runoff issue, it is incumbent upon the Board of Zoning Appeals to require a study by the Ohio Division of Soil and Water or similar body which determines the requirements for additional on-site detention or other storm water detention or mitigation based upon an increased on-site parking area and related soil disturbance.

9. AFFIANT FURTHER SAYETH NAUGHT.


Kevin J. Company, Individual

ACKNOWLEDGMENT

On this the 29th day of July 2020, before me, the undersigned Notary Public, personally appeared Kevin J. Company, Individually, known to me or satisfactorily proven to be the person whose name is subscribed to the above affidavit, and acknowledged that he executed the same for the purposes expressed therein. I attest that he appears to be of sound mind and not under or subject to duress, fraud, or undue influence.


Notary Public **MARY WORRELL**
NOTARY PUBLIC • STATE OF OHIO
My commission expires Mar. 8, 2025

Untitled Map

Write a description for your map.

- Legend 2004
- NP Lordstown ALTA
 - Waterfowl Ln



Google Earth

Image USDA Farm Service Agency



300 ft

Testimony of Melanie Blasko

- I am the President and CEO of Lake-Geauga Recovery Centers, Inc. (Lake-Geauga), a 501(c)(3) non-profit corporation.
- Lake-Geauga has been providing continuous service to individuals and families with Substance Use Disorders in Lake and Geauga counties for 49 years. In using the term Substance Use Disorders, I am referring to those suffering from alcoholism and drug addiction.
- The mission statement is “[T]o promote lifelong recovery from addiction, through prevention, education and treatment, regardless of ability to pay”, and to provide an improved quality of life through long term recovery.
- Lake-Geauga offers outpatient treatment services at its Mentor, Painesville and Chardon offices.
- Outpatient services include intake, assessment, ambulatory detoxification, medication assisted treatment, education, drug and alcohol individual and group counseling, gender specific groups, dual diagnosis groups and individual counseling, family groups, Grief Support Group, aftercare, relapse prevention, intensive outpatient programs, Opiate Recovery Program, drug/alcohol testing, and mental health referrals.
- Lake-Geauga operates four long-term, non-medical residential treatment facilities. Lake House, a sixteen bed men’s residential treatment program, and Oak House, a sixteen bed women’s residential treatment program, are located in the City of Painesville.
- The other two residential facilities are Concord Pines, a sixteen bed men’s facility located in Concord Township, and Nevaeh Ridge, a facility for pregnant women and mothers with children ages 5 and under, located in Mentor.
- The treatment facilities described above are all approved and licensed by the State of Ohio and operated in compliance with the standards and certification requirements of the Ohio Department of Mental Health and Addiction Services (OMHAS) and the Commission on Accreditation of Rehabilitation Facilities (CARF).
- Compliance with all applicable federal and state regulations and State of Ohio licenses are required for continued operation and financial support by funding sources.
- Pursuant to the “community-based continuum of care” statute enacted in Ohio, each Mental Health and Recovery Services Board must provide local recovery housing.
- The Geauga County Board of Mental Health Recovery Services works with Lake-Geauga to operate recovery housing in Geauga County.
- Each recovery house provides a family living setting for adult men or women who have completed a primary substance abuse treatment program, been clean and sober for at least 30 days, and are seeking a drug and alcohol-free living environment.
- A resident must be committed to a path of sobriety and recovery, participate in approved recovery programs, obey house rules and pay rent.

- Most residents are employed in the community.
- A recovery house, often called a sober living home, has a house manager trained by Lake-Geauga who monitors activities, offers support and maintains resident accountability.
- In 2020, Lake-Geauga had an operating budget of approximately \$5,759,966.
- Revenue sources are the Lake County Alcohol, Drug Addiction and Mental Health Services Board, Geauga County Board of Mental Health Recovery Services, Medicaid, private insurance, United Way of Lake and Geauga counties, State grants and other sources, including donations; 82.5% of revenues expended in 2020 were for inpatient and outpatient treatment.
- For those recovering from a substance use disorder, sober housing is a critical need upon discharge from treatment.
- Lake-Geauga has worked closely with local housing agencies for individuals in need of low cost, longer-term individual housing units upon completion of primary treatment.
- While this has benefited some, most of the available housing does not provide the structure, support and alcohol and drug free living environment characteristic of a recovery house.
- A recovery house promotes long term recovery, facilitates the individual's transition into the community and provides a safe and sober environment during the transition.
- Lake-Geauga purchased the Ravenna Road property as a recovery house in September, 2019 for \$258,400. The residence is 2,382 square feet, has four bedrooms with adequate closet space, two baths, an open floor plan with combined living area and kitchen, two car garage, a long driveway which provides ample parking located in a rural, peaceful setting, all of which make it a functional facility for use as a recovery house.
- No structural changes have been made or are anticipated.
- Landscaping was installed.
- The recovery house offers a structured environment with support services, predominately facilitated by peer providers, allowing each resident to transition from a very structured treatment environment to a more independent living situation with limited control and supervision.
- Twelve Meadows will accept adult women from Lake and Geauga Counties with substance use disorders who have been clean and sober for at least 30 days, are not a danger to themselves or others, and are able to live independently and care for their personal needs.
- Each resident must participate in an approved 12-Step program of her choice and be active in recovery.
- Admission requires submitting a complete application, interview by Lake-Geauga Intake Coordinator, Residential Treatment Manager or Recovery House Manager, and at least two references from the 12-Step community, faith based community or counseling professional.

- Qualifications for a house manager are:
 - QUALIFICATIONS:
 1. Must be able to live at the residence.
 2. Must be active in a 12 Step or other recovery program for a minimum of two years.
 3. Must be substance free at all times.
 4. Familiarity with 12-step program and recovery terminology & concepts.
 5. Ability to work as a team member in support of recovery house program for recovering, chemically dependent persons.
 6. Experience in residential setting preferred.
 7. Must possess a valid Ohio driver's license and individual auto insurance.
 - All newly hired employees will submit to a drug screen and the following background checks prior to employment and annually thereafter: criminal background check, Office of Inspector General (OIG), System for Award Management (SAM), Sex Offender, Inmate Registry, Nurse Aide Registry and Department of Developmental Disabilities (DODD) Abuser Registry. (If Ohio residency is less than 5 years, a background check through the FBI will be completed)
- Each House manager hired by Lake-Geauga completes a comprehensive orientation process which includes a review of all LGRC policies & procedures
- Each house Manager meets with Residential Treatment Manager and at least one other current Lake-Geauga House Manager to review policies and procedures related to their job description, including our Good Neighbor Policy, and a review of best practices being used by current House Managers to insure quality, effectiveness and efficiency in an environment that is safe and healthy for all tenants. The house manager who lives on site will monitor activities.
- Conditions of admission and residency include: No use of alcohol or drugs, employment prior to residency or the ability to pay rent, active participation in a 12-Step program, attendance at five or more 12-Step meetings or approved faith based meetings per week, a 12-Step sponsor or an established peer support person or network, random drug testing, weekly attendance at house meetings, compliance with outpatient treatment services provided offsite (if needed), assisting with the proper care and maintenance of the recovery house and house chores.
- Length of residence at the recovery house may not be limited under R.C. §340.034.
- Flexibility in length of stay allows each resident sufficient time to accumulate financial resources and strengthen emotional stability enabling each woman to establish a permanent, independent and healthy living arrangement. The average length of stay is nine months; however many have stayed 1 year and at least one, two years.
- Lake-Geauga will provide administrative oversight and will ensure a high quality recovery house.
- The Revised Code does not require a recovery house to be licensed or certified by OMHAS.

- Currently five of the six recovery houses operated by Lake-Geauga Recovery Centers' follow the National Association of Recovery Residence Standards for Recovery Residences and are currently certified by Ohio Recovery Housing Association ("ORHA"). Twelve Meadows was inspected and received certification as a professional organization by ORHA on February 10, 2020.
- The recovery houses are incorporated into Lake-Geauga Recovery Centers' established and approved Health and Safety Plan, Risk Management Plan, Quality Improvement Plan, Accessibility Plan and must follow administrative policies and procedures.
- Clients' rent of \$85-\$95 per week and the commitment of financial support from the Geauga Mental Health and Recovery Services will meet the annual cost of operating Twelve Meadows.
- In addition, a portion of Lake-Geauga Recovery Centers' fundraising proceeds and donations will be allocated to Twelve Meadows, if necessary, to offset the general operating expenses.
- Geauga County Board of Mental Health and Recovery Services as the county agency directed to provide recovery services in Geauga County submitted a grant to OMHAS on behalf of Lake-Geauga Recovery Centers in the amount of \$334,561. The grant funding is made on a reimbursement basis, 75% covered by OMHAS and 25% by the Geauga County Board of Mental Health and Recovery Services.
- The application must describe the facility, identify the services to be provided at the recovery house (if any), the targeted population, describe consumer access to the recovery house, identify other available programs not on site, residents' responsibilities while living in the recovery house, anticipated operating expenses and assurances of compliance by Lake-Geauga Recovery Centers with OMHAS' grant funding conditions.
- When OMHAS has determined that the project and operation of the recovery house comply with the application and assurances, Lake-Geauga Recovery Centers will be reimbursed. If the Center does not provide housing for five adult women recovering from substance used disorder, it will not receive the grant funds.
- Lake-Geauga Recovery Centers cannot support the operation of Twelve Meadows with only two residents.
- More important is the loss to five recovering women of a solid and structured support system to maintain sobriety and to facilitate transition and return to their families.

Testimony of Melanie Blasko/Pt. II

- Lake -Geauga Recovery Centers purchased the property on September 6, 2019 for use as a single family residence for 5 adult women in recovery from substance use disorder, a recovery house.
- We prepared the house for residency by 5 adult women.
- We did very minor decorating (a small amount of painting, and replaced carpet) and significantly improved the landscaping but no structural changes were made to the house.
- A letter from the Munson Twp. Zoning Inspector James Herringshaw dated October 9, 2019 and sent to 12700 Ravenna Road was received at the Mentor administrative office on October 28th.
- Mr. Herringshaw advised Lake-Geauga Recovery Centers that a zoning certificate may be required if there is a change of use of the house and, if so, a variance was required.
- I called Mr. Herringshaw on November 1st to discuss Lake-Geauga Recovery Centers' use of the property as a residence for 5 adult women in recovery.
- He told me to look at the Munson Twp. zoning resolution and specifically pointed out ORC 5123.19, a licensed residential facility.
- Mr. Herringshaw and I exchanged several emails on November 8th. I advised that our residence is not a licensed residential facility under 5123.19, which addresses housing for the developmentally disabled, but is a residence for 5 adult women who are in recovery from substance use disorder. The women will share the home with a live-in employee, a house manager. In that email I advised Mr. Herringshaw that the women in recovery who will live there are a "protected class". Five men in recovery were recognized as a protected class by the City of Chardon when Lake-Geauga Recovery Centers opened a men's recovery house in the City in 2015. I requested his advice about the next steps to be taken and whether a variance was required.
- Mr. Herringshaw responded that afternoon, stating that legal counsel told him that a protected class does not exempt Lake-Geauga Recovery Centers from the zoning requirements and requested a copy of the memo from Jim Gillette to the City in 2015 when he was the City of Chardon Law Director.

- On that same afternoon, November 8th, I sent Mr. Gillette's memo and a memo from Richard Constantine, Painesville Twp. Zoning Inspector, who also stated that adults in recovery from substance use disorder are a protected class. Mr. Herringshaw forwarded to legal counsel on November 11th. I also told Mr. Herringshaw that I would file a variance request if that is what he recommended.
- I next spoke to Mr. Herringshaw on November 15th. Lake-Geauga Recovery Centers decided to schedule an informational session for the residents in the area surrounding our house at 12700 Ravenna Road to learn more about Lake-Geauga Recovery Centers and our newest recovery house. The property owners in the surrounding area were invited to the informational session on December 12th in a letter sent on November 25th, which was held at the office of the Geauga Board of Mental Health and Recovery Services. Four people attended.
- On December 23rd I went to the Munson Twp. Zoning Inspector's office and filed an application for a zoning certificate.
- Only the information in the zoning certificate application was provided at that time. I wanted to take the application, review it and complete it in my office. Mr. Herringshaw advised that this was unnecessary and insisted that I complete the application at that time. I asked if I could send a letter or statement to further explain the residence for 5 recovering women, and he agreed.
- The application did not request details concerning the proposed use of the property, other than it would be a recovery house. The number of unrelated adults who will reside on the property is not a question to be answered on the application.
- Mr. Herringshaw immediately denied the permit.
- Mr. Herringshaw then instructed me to file a Notice of Appeal Variance Request form.
- Mr. Herringshaw filled in the part of the form that requests the specific regulation from which a variance is sought, stating "Not a permitted use-Level II Recovery House". I completed the rest of the form with Mr. Herringshaw's assistance and later submitted a narrative to be included as part of the variance request.

1. Administrative Oversight –

LGRC owns and operates 13 different locations across our continuum of care. Twelve Meadows is one of those 13 and therefore is incorporated into all our administrative policies and operations. This would include but is not limited to:

- We are guided by a mission and vision
- All locations and programs are incorporated into LGRCs established and approved,
 - Code of Regulations
 - Fiscal Management Policies & Procedures
 - Health & Safety Policies & Procedures
 - Risk Management Plan
 - Medical Emergency Plan
 - Quality Improvement plan
 - Accessibility Plan
 - Clients Rights & Grievance Policy

2. Quality Standards - As a recipient of funds distributed by OMHAS or local ADAMHS Boards, we are required to adhere to tenets of Quality Housing Criteria. There are specific criteria that addresses the Physical Environment and the Programmatic Environment.

The physical environment criteria refers to the structure and premises and includes such things as:

- Abiding by state and local tenant-landlord laws
- Property to be maintained in a safe and healthy condition
- Annual fire inspections, adequate smoke detectors, carbon monoxide detectors and fire extinguishers
- Physical space assurances, including minimum square footage for bedrooms
- A written disaster plan in case of emergency.

The Programmatic Environment refers to written policies and procedures regarding services and supports. These written Policies and procedures include such things as:

- Population served, capacity
- Residents rights and grievance procedure
- Staffing policies
- Protocol for responding to emergencies
- Emergency contact information for residents and staff
- Lease agreement that is in compliance with state and local landlord-tenant laws, Fair Housing and non-discrimination policies.

3. Policies & Procedures regarding house rules to which the residents must agree

- I will read and highlight several rules.