

# Board of Zoning Appeals

## Munson Township

Minutes of August 21, 2014

Chair Bobbie Nolan called the meeting to order at 6:33pm with Lucy Longo, Richard Wright, Gabe Kezdi, Don Alexander, Alternate Danielle Pitcock, and Court Reporter Nayann Pazyniak present. Alternate Michael Waclawski was absent. The Pledge of Allegiance was said.

Richard Wright moved and Gabe Kezdi seconded to approve the minutes of July 17, 2014 as written. Motion carried.

Mrs. Nolan explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. They take facts as presented and apply certain standards of law to then make a decision. A court reporter is present so that anyone wishing to speak for or against the case must be sworn in for the record. The record is made up of testimony and evidence presented. If a case goes to court, decisions are based on what is presented the evening of the hearing. Anyone not in agreement with the decision of the Board could take the case to the Court of Common Pleas within 30 days after the minutes of the meeting are approved.

**CASE 14-08: Thomas E. Foster, 11532 Lakeview Rd., Chardon, OH** – request to construct a 16 x 26 ft. deck 19.6 ft. from the rear (north) property line. Violates SEC. 411 Minimum Dimensional Requirements-minimum rear yard is 40 feet; SEC. 704.1 Nonconforming Structures-no such nonconforming structure may be enlarged, altered, or reconstructed in a way that increases its nonconformity within the minimum dimensional requirements of Section 411.

Zoning Inspector Tim Kearns was sworn in. He read the variance request and violations.

Thomas Foster was sworn in. He commented that there is no bearing on the real property lines; and the neighbors are all looking forward to sitting on his new deck.

Mrs. Nolan questioned if the pictures they were provided were of old or new construction. Mr. Foster replied that the deck is two-thirds finished. Mrs. Nolan then asked how he found out a variance was required. Mr. Foster explained that after he ordered the wood and conferred with his landscaper, etc., Mr. Kearns notified him he needed the variance. Mr. Wright commented that he did not see it as reconstruction because it looks brand new. Mr. Foster explained there was a concrete pad and little deck going out from the house.

Don Starcher of 11524 Lakeview was sworn in. He explained Mr. Foster realized the structure was getting old and unsafe. He is trying to improve the foundation and make it safe for the community to visit. Mr. Starcher had no problem with the variance request.

Mrs. Nolan stated for the record that seven affected property owners were notified regarding Case 14-08. Kathy Starcher was sworn in. She indicated they are neighbors of the Fosters and said they need the new deck because it would be much safer.

Richard Wright moved and Don Alexander seconded that the variance requested in Case 14-08 by Thomas Foster be approved. Discussion following the motion included: there can be and has been a beneficial use to the property – it has been a house since 1974; the variance is not substantial; the situation is as usual due to the area; the essential character of the neighborhood will be altered for the better; adjoining properties will not suffer any detriment; the delivery of government services would not be adversely affected; the predicament cannot feasibly be relieved through some other method; the spirit and intent with the neighbors of Bass Lake community will be upheld; and the owner did file for the variance. Upon the roll call all members voted yes, 5-0. Motion carried.

**CASE 14-09: Payne & Payne Builders, 11692 Overlook Rd., Chardon, OH** – request to construct a home on a .25 acre lot with 80' of frontage, 0' from side property line (sublot 125), 35' setback from road right-of-way, and 21.3' from the rear property line. Violates SEC. 411 Minimum Dimensional Requirements – minimum lot size is 2.5 acres; minimum frontage is 200'; minimum rear yard is 40'; setback from road right-of-way is 80'; and minimum side yard is 25'.

Zoning Inspector Tim Kearns read the variance request and violations. Pete Insana, representing Payne & Payne Builders, was sworn in. He explained they are looking to construct a house on two lots in Bass Lake community and there are violations on several different setbacks. He pointed out that Greg and Karen DiMeolo are present and will be the owners of the home contingent upon the variance. A representative of the current seller, Ohio Presbyterian Retirement Services Foundation, was present as well.

Mr. Kezdi asked what sublots the current owner owns. Mr. Insana replied 125 and 126. When asked, Mr. Insana did not know who owned the property to the rear (sublot 132). He verified the property is all woods at this point. Mr. Alexander asked if the septic was all approved. Mr. Insana replied yes, it was a condition in applying for the variance. Mr. Wright pointed out that in the picture presented the red line cuts over a fence of the neighboring property. It was acknowledged that the fence is actually on sublot 126.

Mrs. Nolan stated for the record that 12 affected property owners were notified in Case 14-09. Kristen Bluemmel of 11711 Overlook was sworn in. Her initial concern was regarding the construction because it is a very narrow road and with small children, she was worried about the volume of traffic. She also wondered about emergency vehicles being restricted. Mr. Insana informed her they always put in a temporary construction drive and provide adequate parking along that drive. He did say there would probably be some things out of their control.

Mr. Wright asked how long the construction would take. Mr. Insana responded "four to five months". Mrs. Bluemmel asked what the hours would be. Mr. Insana replied typically 7:30am to 4pm, but sometimes they would go outside of that.

Greg DiMeolo was sworn in. He explained they have been residents of Chardon for 22 years. They have sold their home and have fallen in love with Chardon and Munson and really love the Bass Lake Community area. They do not want to inconvenience anyone, they are parents themselves, but some things are beyond their control.

James Hickey, representative from Ohio Presbyterian Retirement Services Foundation, explained they are the current owners of the sublots as bequeathed by Marian Callow – her father was one of the founding members of Bass Lake Community. He went on to explain that she died three years ago. It was one of her greatest disappointments that nothing happened with the property - she always felt it should be used. They are representing both the spirit of Ms. Callow and their organization and hope the variance request comes to fruition.

Eric Payne was sworn in. He complimented Mr. Hickey on the story; and then addressed Mrs. Bluemmel's concerns. He explained they have built many homes in Bass Lake Community, and in fact, his own 20 years ago. They will share their contact information with Mrs. Bluemmel and to anyone else with concerns. Mrs. Bluemmel thanked him.

Mr. Alexander asked if there was any intent to combine the three parcels. Mr. Insana said he did not think there is any intent to do so at the point they are at; it just made sense to leave them separate.

Gabe Kezdi moved and Lucy Longo seconded that the variance in Case 14-09 be approved as requested. Discussion following the motion included: this situation is part of the Bass Lake dilemma – the land has been vacant so there is no beneficial use; the variance is substantial due to the property lines; the essential character of the neighborhood will be affected for the positive – they are a reputable local builder; adjoining properties will not suffer a detriment (except initially during construction), but in the long term; the delivery of government services will not be adversely affected; the predicament cannot be feasibly relieved through some other method; the builder knew of the variance; and the spirit and intent behind the zoning would be upheld. Upon the roll call, all members voted yes, 5-0. Motion carried.

**CASE 14-10: Payne & Payne Builders, Parcel#21-040400 Overlook, Chardon, OH – request to construct a home on a .25 acre lot with 80' of frontage, 0' from side property line (sublot 126), 56' setback from road right-of-way, and 21.3' from the rear property line. Violates SEC. 411 Minimum Dimensional Requirements – minimum lot size is 2.5 acres; minimum frontage is 200'; minimum rear yard is 40'; setback from road right-of-way is 80' and minimum side yard is 25'.**

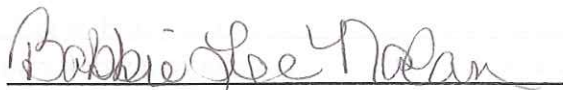
Zoning Inspector Tim Kearns read the variance request and violations. Mrs. Nolan asked the Board if they had any other different questions as it seems pretty straightforward. Mr. Wright asked who determines the house location. Mr. Insana explained that they, along with the surveyor, and feedback from Mr. Kearns, determined that they needed to leave enough room for the driveway on the east side, and the septic and rear yard requirements. They could not meet any of the side yard requirements.

Mrs. Bluemmel asked what portion of the house was on the other subplot. Mr. Insana responded that 11 feet of the front of the home and down the side. Mrs. Bluemmel approached the table to look at the site plan.

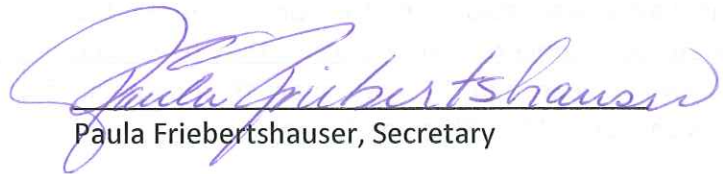
Don Alexander moved and Gabe Kezdi seconded that the variance requested in Case 14-10 be approved as submitted. The Board agreed that the same factors discussed in Case 14-09 apply to Case 14-10. Upon the roll call, all members voted yes, 5-0. Motion carried.

Bobbie Nolan moved and Gabe Kezdi seconded to approve the findings of fact in regards to signage for Cases 14-06 & 14-07 for Ritesh Patel. Motion carried 5-0.

The meeting was adjourned at 7:19pm.



Bobbie Nolan, Chair



Paula Friebertshauser, Secretary