

Board of Zoning Appeals

Munson Township

Minutes of August 19, 2020

Acting Chair Don Alexander called the meeting to order at 6:39pm with Gabe Kezdi, Joe Tomaric, Jim O'Neill, Tim Kearns, Secretary Paula Friebertshouser and Court Reporter Laura Ware present. Danielle Pitcock and Dennis Pilawa were absent. The Pledge of Allegiance was said.

Mr. Alexander 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.

Joe Tomaric moved and Jim O'Neill seconded to approve the minutes of July 29, 2020 as written. Upon the roll call, all members present who had been at the July hearing voted yes, motion carried 3-0.

An email was received from Todd Petersen, legal representative of Mike Miranda and Joseph Pike, requesting a continuance for Cases 20-14 and 15. Joe Tomaric moved and Tim Kearns seconded to grant a continuance for Cases 20-14 and 20-15 until the September hearing. All members voted yes, motion carried 5-0.

CASE 20-12: Bradley Schultz 10819 Butternut Rd., Chesterland OH – requests to erect a 56' x 32' sq. ft. pole barn approx. 80' in front of the principal structure. Violates SEC. 509.2 Accessory Structures (in part) No garage or other accessory structure shall be erected within the front yard of any district.

Mr. Alexander read the variance request and violation. Zoning Inspector Jim Herringshaw was sworn in. He referred to the site map and explained it is an L-shaped lot with a shared driveway. He showed photos taken from Butternut toward the residence, the location of the proposed pole barn, and the view looking toward Butternut. He noted that another residence is in front, and a batting cage where the structure would go.

Bradley Schultz was sworn in. He explained they have an RV he would like to store inside as well as the batting cage. When asked if there would be electric, Mr. Schultz responded he would run it only from the existing garage for the batting cage. There would be storage and nothing else.

Mr. Alexander stated for the record there were 34 affected property owners notified in Case 20-12.

Tim Garlak of 10813 Butternut Road, affected property owner directly in front, commented that he and his wife had no objection to the variance request and there is plenty of tree screening. Mr. Kearns commented that it is always good when a neighbor comes in support of the variance request.

Tim Kearns moved and Gabe Kezdi seconded to grant the variance requested in Case 20-12 as written. Discussion following the motion included there is a beneficial use without a variance; the variance is not substantial; the essential character of the neighborhood would not be altered as the setback is no issue and the adjacent property owner testified; adjoining properties would not suffer a detriment, it is set back in the woods; the variance would not adversely affected the delivery of government services; the predicament cannot be feasibly relieved through some other method; and the spirit and intent behind the zoning would be observed and substantial justice done by granting the variance. Upon the roll call all members voted yes, 5-0. Motion carried.

CASE 20-13: George Fretz Parcel #21-154800 Chestnutdale Rd. Chardon OH – requests to construct a 10' round gazebo 57' from the road right-of-way, 10' from the east side property line, 17' from the rear property line with no principal structure on the parcel. Violates SEC. 411 Minimum Dimensional Requirements-minimum setback from the road right-of-way is 80'; minimum side yard setback is 25'; and minimum rear yard setback is 40'; and SEC. 403.1 Permitted Principal Uses and Structures (in part) An accessory building is not a permitted principal structure or use in the R-3 Residential District.

Mr. Alexander read the variance request and violations. Zoning Inspector Herringshaw pointed out the four quarter acre parcels on the site plan. He explained that Edgewood is in the back and the property drops off; the applicant has proposed the gazebo as far back as possible.

George Fretz was sworn in. He explained the proposed location is about in the center of all the properties. They tried to put it back as far as they could and it would be visible from only one house on Edgewood.

Mr. Alexander stated for the record that 38 affected property owners were notified in Case 20-13. Mr. Tomaric commented that he had driven by and the corner and second lot from Edgewood are unbuildable lots with the ravine. He felt the proposed location made the most sense. Mr. Kearns agreed.

Tim Kearns moved and Jim O'Neill seconded that the variance requested in Case 20-13 be approved as written. Discussion following the motion included that there can be a beneficial use without the variance; the variance is not substantial; the essential character of the neighborhood would not be altered, it is a nice gazebo; adjoining properties would not suffer a detriment, it is a problem of the community with the small lots; the variance does not adversely affect the delivery of government services; the predicament cannot be feasibly relieved through some other method; the spirit and intent would be observed and substantial justice done by granting the variance; and the property owner did not have knowledge of the zoning. Upon the roll call all members voted yes, 5-0, motion carried.

CASE 20-16: Michael Ramirez 11761 Auburn Rd., Chardon OH – requests to construct a 16' x 24' detached garage 10' from the south side property line. Violates SEC. 411 Minimum Dimensional Requirements – minimum side yard is 25'.

Mr. Alexander read the variance request and violation. Mr. Herringshaw showed photos where trees were taken down; the proposed location was staked; and a photo with the property line drawn and what the neighbor would see. The garage would be placed at the end of the driveway 15 feet from the home.

Mr. Tomaric asked where the septic system was located. Mr. Ramirez responded it was 60 to 70 feet from the proposed location and if they were to follow zoning, it would put it close to the septic system. He explained the garage would be used for storage of a car and lawn and garden equipment. They placed it at the end of the driveway so they would not have to extend it. Mature pines have been taken down and water intrusion would not be a problem. They have talked to their neighbors. When asked if it would have electric and what kind of foundation, Mr. Ramirez responded it would have no electric and the foundation would be slab on grade. The proposed garage would match the home and be built by a local contractor.

Mr. Alexander stated for the record that 35 affected property owners were notified in Case 20-16. There was no public comment.

Tim Kearns moved and Joe Tomaric seconded that the variance requested in Case 20-16 be approved as written. Discussion following the variance included there could be a beneficial use as a residence; the variance was not substantial; the essential character of the neighborhood would not be altered; adjoining properties would not suffer a detriment; the delivery of government services would not be adversely affected; the predicament cannot be feasibly relieved through some other method; the spirit and intent behind the zoning would be observed and substantial justice done by granting the variance; and the property owner did not purchase the property with knowledge of the zoning restriction. Upon the roll call all members voted yes, 5-0, motion carried.

The meeting was adjourned at 7:08pm.

	9/16/20		9/16/20
Don Alexander, Acting Chair	Date	Paula Friebertshauser, Secretary	Date