

Board of Zoning Appeals

Munson Township

Minutes of September 18, 2014

Chair Bobbie Nolan called the meeting to order at 6:32pm with Richard Wright, Gabe Kezdi, Alternates Danielle Pitcock and Michael Waclawski, and Court Reporter Kim Giel present. Don Alexander and Lucy Longo were absent. The Pledge of Allegiance was said.

Gabe Kezdi moved and Richard Wright seconded to approve the minutes of August 21, 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 14-11: Donna Soncrant, 13052 Coachman Dr. Chardon OH – request to construct a 16' x 32' accessory structure in front of the existing home. Violates SEC. 509 Accessory Structures – no garage or other accessory structure shall be erected within the front yard of any district.

Zoning Inspector Tim Kearns was sworn in. He read the variance request and violation and presented photos of the proposed location. Mrs. Nolan asked if the drawing was to scale; and referencing that drawing, commented that the proposed building did not appear to be in front of the home. Mr. Kearns pointed out the location on the picture. He presented another picture taken from the garage. When asked, Mr. Kearns said the location of the proposed building is 32 feet from the small parking space indicated on the site plan.

The Board recessed at 6:43pm. The meeting resumed at 6:48pm.

Mrs. Nolan informed those present that they would like to continue the case because the Board felt there was not enough information. She asked Mrs. Soncrant how soon she would like to build. Mrs. Soncrant replied "tomorrow". Mrs. Nolan reiterated there was not enough information and that Mrs. Soncrant may get a \$300 refund. The Board wanted the exact measurements from the front corner of the house to the road and the proposed building to the road.

Mrs. Soncrant was sworn in. Mrs. Nolan asked her to come up to the table and show the Board where the building was to be built. Mrs. Soncrant showed the proposed location and confirmed it would be in front of the home. When asked who was building the structure, Mrs. Soncrant replied "Claridon Barns". When asked the use, Mrs. Soncrant said it would have agricultural purpose as a bunny barn.

Mrs. Nolan stated for the record that 20 affected property owners were notified in Case 14-11. Jeff Huntsberger of 11740 Raintree Drive, a real estate lawyer and member of the Geauga County Planning Commission Board, explained that if it is for agricultural use she does not need a variance. Mrs. Soncrant replied that the reason they are asking for a variance is if they sell the property in the future it can be used for another purpose.

Richard Wright moved and Gabe Kezdi seconded that the variance requested in Case 14-11 be approved as stated. Discussion following the motion included: there can be and has been a beneficial use; the variance can be considered substantial, but there is a significant setback and it is heavily treed, so no interference; the essential character of the neighborhood would not be altered; adjoining properties would not suffer any detriment; the delivery of governmental services would not be affected because the driveway is still there; the predicament cannot be feasibly relieved through some other method; the spirit and intent behind the zoning would be upheld; and the appellant did not know of the zoning restrictions. Upon the roll call, all members voted yes (5-0), motion carried.

CASE 14-12: Kristen Mendeszoon, 11400 Bean Rd., Chardon OH – request to construct a home addition 20 feet from the west side property line. Violates SEC. 411 Minimum Dimensional Requirements-minimum side yard is 25 feet.

Mr. Kearns read the variance request and violation. He presented photos taken from the garage that showed the edge of the property.

Kristen Mendeszoon was sworn in. She explained there are ravines in the front and back of their property and the proposed site is the only feasible location. She checked with the most affected neighbor, Jolene Carnabucci, who had no problem with the variance request. Mr. Kezdi asked if it was a garage with an addition. Mrs. Mendeszoon pointed out to the Board where the addition would be located. When asked, she confirmed it would be two stories. The second story above the garage would be a gym for her husband and there would be a three-season room on the back. The building would have the same aesthetics as the home and would be overseen by the initial builder. She further explained that the addition would be angled to better blend in with the house so it does not look like an addition. When asked, Mrs. Mendeszoon verified it would be 220 feet back from the road. When asked about the other side, she said there is a dip in the property and a lot of trees.

Mrs. Nolan stated for the record that 16 affected property owners were notified in Case 14-12. There was no public comment.

Gabe Kezdi moved and Richard Wright seconded that the variance requested in Case 14-12 for Kristen Mendeszoon be approved. Discussion included: there has been a beneficial use; the variance dimensionally is not significant, but the amount of work is significant; the essential character of the neighborhood would not be altered because it is hard to see because of the angle; government services would not be affected; the predicament cannot be feasibly relieved through some other method; the spirit and intent warrants approval; and the owner did not know of the zoning restrictions. Upon the roll call, all members voted yes (5-0), motion carried.

CASE 14-13: Thomas Richter, 11731 Fowlers Mill Rd., Chardon OH – request to construct a 32' x 40' accessory building in front of the home and 15 feet from the north side property line. Violates SEC. 509 Accessory Structures-no garage or other accessory structure shall be erected within the front yard of any district; SEC. 411 Minimum Dimensional Requirements-minimum side yard is 25 ft.

Mr. Kearns read the variance request and violations. He presented photos of the proposed location.

Thomas Richter was sworn in. He said he would like his friend to speak on his behalf. Jeffrey Joseph Hines was sworn in. Mr. Hines explained Mr. Richter purchased the property from his grandmother who passed away at the end of 2010. He was unaware of the zoning restrictions. He informed the Board that the septic system had to be replaced and there is limited access to the rear of the property. The paved driveway and pond also limits placement. Mr. Hines explained that the ravine takes water from the road onto the property which also limits building areas. He went on to say that Mr. Richter would like a bigger building, but was limited to fit the area.

Mr. Wright asked if it is insufficient to have the driveway between the house and the septic. Mr. Hines responded that it is very limited which can be seen on Google maps. There is less than 10 feet to the perimeter drain. Mr. Hines explained the house was built in 1959 and is less than one foot from the property line.

When asked about the purpose of the building, Mr. Hines responded it would be for storage, and a mower. Mr. Waclawski asked if there would be any windows. Mr. Hines replied there are no planned windows to face the street. They currently have three to four contractors bidding, but were waiting for the variance. The building would have vinyl siding and the roof would match the house. It would have a 4/12 pitch and look more residential. They were not sure if they could add windows, but would like to. Mr. Wright asked if it would be parallel to the neighbor's house. Mr. Hines explained it would provide a block to Mr. Richter's property. The neighbor's house is parallel to Fowlers Mill Road and the proposed building would actually be behind it. He added that a bigger apron would be better, but they did not want to overwhelm the site.

Mr. Waclawski asked what the size of the house is compared to the proposed building. Mr. Hines said the home was 1,800 square feet. He commented that it probably would not be seen a lot from the road as it is over 200 feet back and there are a lot of trees. He showed the Board on his iPad. Mr. Hines went on to say they have cleaned up the property in the last four years.

Mrs. Nolan stated for the record that 22 affected property owners were notified in Case 14-13.

Carol Seward, executor for 11711 Fowlers Mill, did not agree with Mr. Hines testimony, she thought it would be an eyesore. She did not want anything getting in the way of selling the property. She explained there is a gazebo and the view of the building would be an eyesore. The neighbors moved out to Munson 37 years ago because they wanted a park-like setting. She also had a letter from the neighbor across the street. Mrs. Nolan informed her that the Board cannot accept letters because they cannot be cross-examined. Mrs. Nolan asked Ms. Seward to come up to the table and show where the gazebo is located in comparison to the building. Mr. Kezdi asked if there are two gazebos. Ms. Seward replied yes.

Mrs. Nolan commented that if Mr. Richter wanted, he could build up farther and would not need the side setback. Ms. Seward commented that she does not want it to set precedence. Mrs. Nolan explained that each case is heard on its on merit.

Mr. Hines commented that he had a picture with the gazebo on it and pointed out that their original design of no windows and door was to respect the neighbors. The equipment is currently in the house garage. He pointed out the actual location of the gazebo. Mrs. Nolan pointed out some trees and asked if they were on Mr. Richter's property. Mr. Hines replied they might be on either property, but they had no intention of taking them down. Mrs. Nolan noted that the trees would block the view where the proposed structure was to be built.

Tony Keller, adjoining property owner of the vacant land to the south, expressed concern with the size of the structure. Mrs. Nolan asked him if he has decided where his home will be built. Mr. Keller replied they did and the land goes much farther back – the proposed structure would not affect their view. His concern is more from how it would affect the neighborhood because the building seems large in proportion to the home.

The Board recessed at 7:40pm and the hearing resumed at 7:59pm.

Mrs. Nolan explained to Mr. Richter that the Board was concerned with the size of the building as it seemed quite large for the property and would be almost the same size as the house. The Board asked if he would like to think about continuing the case and come back with better drawings of what it would look like including photos taken from the road. Mrs. Nolan asked if he had to have a 32 x 40 square foot structure or if he could live with something smaller. Mr. Hines asked for clarification as to whether the issue was now the size; he thought it was the setback and having the building in front of the home. Mr. Waclawski explained that the Board is in place to keep the integrity of Munson which is why they have to have a variance. Mrs. Nolan asked Mr. Hines if he helped fill out the variance application because in the application there are standards the Board needs to apply – they are called the Duncan Factors and the appellant is charged with having to meet most of them for an area variance. One of those factors is the essential character of the neighborhood. The Board was concerned with the size of the proposed building for the area. She asked if they would like a continuance with the opportunity to bring a different plan/size.

Mr. Hines asked if he and Mr. Richter could have a recess. He asked if the \$300 would be refunded. Mrs. Nolan replied no to the refund, but explained they could have a continuance if they wanted to resubmit. After conferring with Mr. Richter, Mr. Hines said they would not seek a continuance, but would look at the possibility of a different concept in the rear.

Richard Wright moved and Michael Waclawski seconded that the variance requested in Case 14-13 by Thomas Richter be denied as written. Discussion following the motion included: there can be a beneficial use with the work he is doing and how the equipment is currently stored he is making do; the variance is very substantial due to the neighborhood; the essential character of the neighborhood would be altered permanently; adjoining properties would suffer a detriment due to the size; the delivery of government services would be ok; the predicament could be relieved through some other

method; by not approving the request, the spirit and intent behind zoning would be upheld; and the property owner did know of the zoning restrictions. Upon the roll call, all members voted yes (5-0) to deny the request, motion carried.

CASE 14-14: Sally Huntsberger, 11740 Raintree Dr., Chardon OH – request to construct a 24' x 24' accessory building in front of the home. Violates SEC. 509 Accessory Structures-no garage or other accessory structures shall be erected within the front yard of any district.

Mr. Kearns read the variance request and violation. He presented photos of the proposed accessory building location. Mrs. Nolan asked how the location was determined to be in front of the home. Sally Huntsberger was sworn in. She explained they always thought the turnaround was in front of the house. When she took a compass – it seemed to be close and she was surprised they needed a variance because the GIS is subjectable. Mrs. Huntsberger further explained there is a ravine behind the house and with the leech field located in the front; it is the only viable option. She approached the table to point out the location. When asked, she said they are 190 feet back from the cul-de-sac. She added that there are similar structures across the street. Mrs. Huntsberger commented that the Koellikers were supposed to come, and they had no problem with it. When asked what the use would be, Mrs. Huntsberger responded it would be for storage of clutter that is currently in the attached garage. When asked what it would look like, Mrs. Huntsberger explained it would be a standard pole barn and have rough cedar tongue and groove to match the house.

Mrs. Nolan stated for the record that 16 affected property owners were notified in Case 14-14. There was no public comment.

Michael Waclawski moved and Gabe Kezdi seconded in Case 14-14 the variance be approved as requested by Sally Huntsberger for a 24 x 24 square foot accessory building in front. Discussion following the motion included: the appellant managed to get by with the clutter and the variance is substantial, but for all appearances, the neighborhood character will not be altered, because it should blend in; adjoining properties would not suffer any detriment because of the distance between the properties and it is wooded; 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 the property owner did not know of the zoning restriction. Upon the roll call, all members voted yes (5-0), motion carried.

CASE 14-15: Cindy DeMarco, 12215 Country Oaks Tr., Chardon OH – request to construct a 10' x 12' accessory building 10 feet from the east side property line. Violates SEC. 411 Minimum Dimensional Requirements-minimum side yard is 25 feet.

Mr. Kearns read the variance request and violation.

Cindy DeMarco was sworn in. She said it is her husband's project and wanted him to explain. Ronald DeMarco was sworn in. He explained he would like to construct a 10 x 12 square foot shed; and if it were to be 25 feet from the side property line, it would be too far into the backyard. He had a drawing of the septic field with the secondary field to the east that the proposed structure would encroach

upon if placed within zoning regulations. Also, if he were to sit on his back porch he would be looking directly at the shed.

When asked who would do the construction, Mr. DeMarco said it would be made by Pine Craft and would have a window. When asked what the purpose would be, Mr. DeMarco responded it would be for storing a lawn mower, garden tools, etc. It would not have electric at this time.

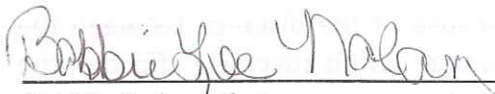
Mrs. Nolan stated for the record that 32 affected property owners were notified in Case 14-15. There was no public comment. Mr. DeMarco commented that his neighbors had no problem with the request.

Danielle Pitcock moved and Michael Waclawski seconded that the variance requested in Case 14-15 be approved to construct a 10 x 12 square foot building 10 feet from the property line. Discussion following the motion included: there can be and has been a beneficial use as they have got along for some time (Mr. DeMarco interjected that they just moved in last November); the variance is substantial, but where it is located and the size will not affect the character of the neighborhood; adjoining properties will not suffer a detriment; the delivery of government services will not be adversely affected; the predicament cannot be feasibly relieved through some other method; and being new neighbors, the spirit and intent will be upheld; and the property owner did not know of the zoning restriction. Upon the roll call, all members voted yes (5-0), motion carried.

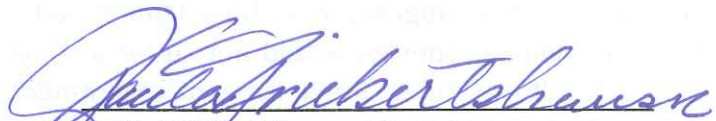
Gabe Kezdi moved and Richard Wright seconded to approve the findings of facts for Case 14-08 for Thomas Foster, and Cases 14-09 & 10 for Payne & Payne. Motion carried.

Mrs. Nolan and Mr. Kezdi will be out of town for the October meeting.

The meeting was adjourned at 8:30pm.



Bobbie Nolan, Chair



Paula Friebertshauser, Secretary