

**PAINESVILLE TOWNSHIP
BOARD OF ZONING APPEALS
MEETINGMINUTES
May 14,2019**

Present: Dave Lindrose, Randy VanBuren, Dave Enzerra and Dale Lewis
Absent: Tom Hill
Zoning Inspector: Rich Constantine
Legal Counsel: Matt Lallo

Dave Enzerra was the acting chairman for Tom Hill who was not in attendance. He called the meeting to order at 6:30 p.m. The Pledge of Allegiance was recited. The Roll was called for attendance purposes and it was noted that a quorum was present. The Chairman requested that Legal Advisor Matt Lallo swear in the persons who were present to speak and intended to testify during the public hearings.

PUBLIC HEARINGS

Case 19-BZA-12

Applicant Peter F Romano submitted an Application for a Variance for property located at 13 Wintergreen Hill Dr (PPN 11A005A000090). The Variance request is to allow construction of a new 28x38 ft (1064 sq ft) detached garage which will increase the ground coverage area of accessory buildings on the subject property to 1256 sq ft in violation of Section 14.02(C)(4) which limits the total ground coverage of all accessory buildings on any one lot to 875 sq ft OR 50% of the living area on the ground level of the main building, whichever is greater. The maximum allowable ground coverage of accessory buildings on the subject property is 1041 sq ft.

Chairman saw no error of the Zoning Inspector.

Mr. Romano stated that he would like to build garage to match his house and store a couple cars and storage. Mr. Romano stated that he inherited two (2) classic cars and he doesn't have a place for them. Along with two kids and their items the garage would allow them the extra storage needed. Chairman asked if there was anyone present to speak against the application. Hearing none, the Chairman asked the board if they had any questions. Ken Sullivan asked if he plans on using the same material on the backside of the addition. Mr. Romano replied yes. Chairman inquired if what his plans are with the existing shed on the property. Mr. Romano stated that he plans on keeping it. Zoning Inspector asked what material he will use to extend the driveway. Mr. Romano stated that he was going to use concrete. Zoning Inspector stated that all impervious surfaces shall be homogenous and currently his driveway is asphalt. Mr. Romano replied that when he expands his driveway he'll use asphalt. Chairman commented that the vote is always in the affirmative. The Chairman called for a motion.

Dave Lindrose moved to approve Case 19-BZA-12 as requested. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Motion carried.

Dave Lindrose moved to journalize Case 19-BZA-12. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Motion carried.

Case 19-BZA-13

Applicant Christine Blue submitted an Application for a Variance for property located at 121 Nelmar Dr (PPN 11A020E000210). The Variance request is to allow placement of a 16' x 10' shed with a side yard clearance of three (3) ft and a rear yard clearance of five (5) ft in violation of Section 14.03(A)(1) which requires a ten (10) foot side yard clearance and Section 14.03(G)(3) which requires a ten (10) foot rear yard clearance.

Chairman found no error from Zoning Inspector. The Chairman asked if anyone would like to speak in favor of this request. Hearing none, the Chairman stated that the board can proceed or continue the case. Dave Lindrose commented that their existing shed was damaged in a storm. The proposed shed will not encroach any further on the setbacks.

Chairman called for a motion.

Dave Lindrose moved to approve Case 19-BZA-13 as requested. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Case 19-BZA-14

Applicant Suzanne Weber submitted a Conditional Use Application for property located at 273 Barrington Ridge (PPN 11A012A050130) for an Agricultural Conditional Use Permit required by Section 31.03(B) for animal husbandry involving ducks.

Chairman found no error of the Zoning Inspector.

Suzanne Weber at 273 Barrington Rd stated that they started the duck process before they were informed of needing a permit. The ducks are currently living in their garage. The surrounding neighbors are in favor of this permit. The ducks will not wander the property. Pam Sullivan at 292 Stratford Rd stated that her side yard butts up to their backyard and they have no issue with the ducks. Shannon and Shawn Storm at 287 Barrington stated that they are in favor of this request. Michelle Pulson at ??? stated that the duck structure looks great. The Chairman asked if there was anyone present to speak against this application? Hearing none, he asked if the board had any questions. Dave Lindrose asked if they wanted the ducks for eggs or pets? Suzanne Weber replied for pets. Ken Sullivan commented that the term could be 1-5 years. The Zoning Inspector stated yes, no less than 1 year and no more than 5 years. Dale Lewis inquired if the board put a restriction of the maximum number of ducks to be 4 if the applicant is okay with that?

Suzanne Weber replied yes, she does not plan on adding more. The Chairman stated that the structure to house the ducks should be 50 feet from rear property and 25 ft from side-yard. Suzanne Weber replied if she followed those guidelines then ducks would be on her deck.

Legal Advisor, Matt Lallo stated that the variance would be for the setback. The CUP needs to be approved first, then the applicant would file an application for a variance regarding the setbacks. Mike Molihan at 720 Bowhall Rd asked if they need a permit for that? Matt Lallo stated that the zoning code requires a structure for the animals to be kept in. The Conditional Use Permit is to allow them to have animal husbandry on their property and the structure needs the variance.

Matt Lallo stated that the board has to follow the legal requirements and proper procedure has to be followed. He stated to finish this process and file the variance application. Dave Lindrose commented if the board could make it a condition to allow the structure until they have the opportunity to file for a variance request. Matt Lallo stated to move forward with the CUP. Chairman asked for a motion.

Randy VanBuren moved to approve Case 19-BZA-14 with the following conditions:

1. Maximum of 4 ducks
2. 5 year term

Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Ken Sullivan moved to journalize Case 19-BZA-14. Randy VanBuren seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Motion carried.

Case 19-BZA-15

Applicant Michael Mollohan submitted an Application for a Variance for property located at 720 Bowhall Rd (PPN 11B032C000380). The Variance request is to be allowed to demolish an existing 9x48 ft detached garage and an existing 8x12ft wood deck and then to construct a 1393 sq ft frame addition including an attached garage to a legal non-conforming structure with regard to the existing front setback of 40 feet, left sideline clearance of 8 feet and right sideline clearance of 5 feet in violation of Section 7.05 which limits the expansion of main floor area of a non-conforming structure to 10%. The proposed expansion is 307% with none of the existing non-conforming setback/clearance areas being worsened.

The Chairman found no error of Zoning Inspector.

The Chairman asked if anyone was present to speak in favor of this application. Applicant, Mike Mollohan, at 720 Bowhall Rd. stated that the proposed garage will not go any closer to the property lines than the existing one. Mr. Mollohan commented that he has a classic car and wants to expand his garage to work on it. This addition will enclose the door to get in his basement. The Chairman asked if the driveway will be the same? Mr. Mollohan replied yes. Dale Lewis inquired if this is the length of the house? Mr. Mollohan replied, yes. Dave Lindrose asked if he plans on putting in a footer? Mr. Mollohan replied yes. It is a 12" block up to grade. Dave Lindrose stated that footer will be 48" deep.

Dale Lewis commented that the applicant will build them up with 12" block. The Chairman asked if anyone was present to speak against this request? Hearing none, he asked for a motion.

Ken Sullivan moved to approve Case 19-BZA-16 as submitted. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Ken Sullivan moved to journalize Case 19-BZA-15. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Motion carried.

Case 19-BZA-16

Applicant Ronald and Rita Heinz submitted an Application for a Variance for property located at 139 Hampshire Cove (PPN 11A014F000740). The Variance request is to allow the continued existence of a

non-conforming deck providing approximately 37 feet of rear yard clearance in violation of Section 17.07(B) which requires that multiple family buildings, accessory buildings and structures shall have a minimum side and rear yard clearance of not less than 50 feet.

The Chairman found no error from our Zoning Inspector.

Applicant, Rita Heinz stated she purchased the condo in 2014. The condo had an existing deck which they have maintained for years. Mrs. Heinz stated that they purchased material to replace the wood deck with composite material to update their deck; size will not change. She stated that every owner has 14 feet behind their condo and she didn't realize they had an issue. She stated they received a letter that they need to comply with the township resolutions or remove the deck. The Chairman commented that the deck was built in 1997 and the original owners didn't get a permit. The Chairman asked if anyone was present to speak against this request? Nicholas Layman at 2130 Pebblehurst Crt. stated that he has lived at this house for over 30 years. He commented that his house is a 2 story residential home. The deck was there previously there, however in 2016, the common area was to be maintained by Stevens Management Condo Association. Mr. Layman stated the common area has now been replaced with gardens and they constantly hear noise from leaf blowers. He stated that if they sell, there is no guarantee the next owners will maintain the garden area or the deck. In 1999, the intent was to preserve the natural area (50 foot buffer). Mr. Layman stated that this raises a safety issue due to 4 teenagers trespassing through their yard. They are within 60 feet from our house and their deck. He stated the value of their property has diminished now that the wooded area has been eliminated. Mr. Layman asked for the buffer area to be restored by evergreens. Legal Advisor, Matt Lallo, stated that he needs to communicate with HOA and file an action with them. The dispute is with the Condo Association for removing trees. Mrs. Heinz stated that a wooded area is still there. The Chairman commented that the issue tonight is the deck which has been there for 22 years. The deck will not be expanded only updated. Joan Layman stated that she retired in 2006. Since then, shrubs and trees have been removed in the common along with other property owners to create a walk thru. Mrs. Heinz stated that she moved in 2014 and only removed one tree with the approval of the association because it was dead. The Zoning Inspector commented that there is not a record that the deck was permitted, but he was able to see that it was built in 1997. The back of the condo is slightly less than 50 ft. The entire deck is encroaching in the no build area which requires a variance. The Zoning Inspector stated that the zoning code does not specify what needs to be in the no-build area. If there was an agreement of Condo Association then it would be up to the HOA to enforce said agreement. The Chairman stated that the issue regarding the buffer area is with the HOA association; it is separate from this issue. The Zoning Inspector stated that there are many units that back up internally and not in a common area. In this case, the proper application would have been denied at this time, but this deck has been there for 22 years.. The Chairman commented that we need to require a variance because the deck was not approved at the time it was built.

Dave Lindrose moved to approve Case 19-BZA-16 as submitted. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Ken Sullivan moved to journalize Case 19-BZA-16. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Motion carried.

Case 19-BZA-17

Applicant Lake County Historical Society submitted an Application for a Variance for property located at 415 Riverside Dr (PPN 11A0190000140). The Variance request is to supercede Case 19-BZA-11 by allowing construction to proceed for a 940 sq ft addition to the Exhibition Barn for restroom facilities without undergoing the Site Plan Review process as required by Section 11.11(A) and includes a request to be allowed a right sideline clearance of 20 feet in violation of Section 18.06 which requires that clearance to be a minimum of 25 feet. Case 19-BZA-11 was based upon 720 sq ft addition and a right sideline clearance which complied with requirements.

Chairman saw no error of Zoning Inspector.

Amy Kapostasy, Director of Historical Society, stated that at the last meeting, the architecture was not employed by the Historical Society and would like to move forward with the new proposed design and to proceed without a Site Plan Review. The additional square footage will require a variance request for the encroachment. Amy stated that they could comply with the setback and make the proposed building 5 ft smaller? Chairman stated the property is adjacent to the Painesville school district, which they are aware of the proposed application and have no issues. Dale Lewis stated that the picture of the parking lot is owned by the Board of Education. Amy shows the board that this should be a pond. Dale Lewis stated that the building will not encroach on any valuable property.

Randy VanBuren made the motion to approve Case 19-BZA-17 as submitted. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Ken Sullivan moved to journalize Case 19-BZA-17. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

Motion carried.

Case 19-BZA-18

Applicant Jonathan Dotson submitted a Conditional Use Application for property located at 1314 Mentor Ave (PPN 11A016C010050). The request is for a Conditional Use Permit as required by Section 22.02(E), 12.02(K) and 12.05(K) for the accessory use of outdoor storage and/or display in association with a permitted use. Pre-manufactured storage sheds are proposed to be stored and displayed 24/7.

Chairman saw no error of the Zoning Inspector.

Chairman stated that the applicant is not here. Dale Lewis asked if there is a limit of number of sheds?

The Zoning Inspector stated there are 7 sheds from pictures and stores items on the outside of the building.

They used illegal signs along with lawnmowers, grills, chairs and couches on the sidewalk. The Zoning

Inspector stated that the applicant took occupancy without obtaining a permit. The property is zoned B-3,

and the township requires a Conditional Use Permit to display items outside the building. The Zoning

Inspector stated that he sent a letter to the applicant they will need to remove the sheds within 5 days if the

CUP is not approved. The Zoning Inspector stated that the sheds eliminate parking spaces as well. The

applicant may need to move the sheds to the wooded area. The property may need landscaping as well.

The number of parking spaces should be 1 space per 250 sq ft. Chairman commented that there are a lot

of pieces to this. There are 2 sheds are on the side of the building but not behind the back wall. The

Zoning Inspector read the letter he mailed the applicant and Matt Lallo stated the board can continue, deny,

or approve (with conditions). Matt Lallo stated the board can put conditions regarding the location of where the sheds are allowed and/or displayed along with other items.

Ken Sullivan asked if the trustees have an opinion on this and if this is the type of business they want on Mentor Ave. The Zoning Inspector replied no. The Zoning Secretary, Lorrie Schuck, stated that the notice was mailed to KAIM properties at 4670 Figgie Rd in Willoughby OH, which is the business owner tax address. A notice was not mailed to Jonathan Dotson at 1280 Salt Springs Rd Warren OH 44481.

Randy VanBuren moved to continue Case 19-BZA-18 to the next meeting. Ken Sullivan seconded.
Roll Call: Sullivan; Aye, Lindrose: Aye, VanBuren; Aye, Lewis: Aye, Chairman; Aye.

OLD BUSINESS: None

NEW BUSINESS: The Zoning Inspector mentioned the planning workshop and to let him know if anyone would like to register.

Regular meeting:

The Chairman called for attention to the minutes of the April 9, 2019 hearings and meetings and if anyone had any comments or corrections. Hearing none, the Chairman declared the minutes to be approved.

There being no further New Business, the Chairman adjourned the meeting 7:55PM. Next meeting will be Tuesday, June 11, 2019.

Respectfully submitted,



Tom Hill, Chairman


Lorrie Schuck, Secretary