

**PAINESVILLE TOWNSHIP
BOARD OF ZONING APPEALS
MEETING MINUTES**

Tuesday, June 8, 2021

Painesville Township Office 55 Nye Rd. Painesville Twp., OH, 44077

Present: Tom Hill, Ken Sullivan, Randy VanBuren, Dave Lindrose, Dale Lewis
Absent: Dave Enzerra
Zoning Inspector: Harley DeLeon
Legal Counsel: Jason Hartzell

Chairman, Tom Hill called the meeting to order at 6:31 P.M. The Pledge of Allegiance was recited. The Public Hearing was held by video conference, and in-person due to the respectful response to the coronavirus mandates in the State of Ohio. A roll call revealed that a quorum was present.

Legal Advisor Jason Hartzell swore in any persons who were present to speak, separately with each case; and intended to testify during the public hearing.

Public Hearing:

• **Case 21-BZA-01:**

Applicant Hema Jay One LLC filed a Variance Application for property located at 880 Oakwood Blvd. (PPN 11-B-041-G-08-066-0). The request is to allow a pre-existing 31' by 15' pole building that was built without the benefit of permits to maintain a one (1) inch setback from the main dwelling in violation of Section 15.02(C)(5) which requires a minimum separation of ten (10) feet between accessory structures and a dwelling, a rear yard setback of four and half (4.5) feet in violation of Section 15.03(G) which requires a minimum separation of five (5) feet between an accessory structure and the rear property line, and a side yard setback of two and half (2.5) feet in violation of Section 15.03(F)(3) which requires a minimum separation of five (5) feet between an accessory structure and the side property line.

Chairman found no error in the Zoning Inspector requiring a variance.

Legal Advisor Jason Hartzell swore in Jay Hema to speak in favor of the request.

Jay Hema stated that the proposed structure was built by mistake without a permit. Mr. Hema continued that the proposed building was for storage for materials pertaining to his rental properties.

Chairman asked if Mr. Hema had obtained a building permit for the proposed structure.

Zoning Inspector Harley DeLeon let Chairman know that she had advised the applicant to wait on obtaining a building permit, until the current Public Hearing, if the applicant was able to acquire the variance request.

Randy VanBuren asked if the Board should approve the variance pending approval of building permit.

Zoning Inspector Harley DeLeon replied with a variance in place, the applicant could rebuild a structure up to code.

Dale Lewis asked if a condition could be written that the proposed structure would have to be up to code for a building permit.

A discussion was held pertaining to what amount of authority the Township had regarding asking for a building permit as a condition.

Chairman asked the Board to make a motion.

Ken Sullivan made a motion to approve **Case 21-BZA-01**. Dave Lindrose seconded.

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

- **Case 21-BZA-05:**

Applicants August & Mary Ann Landsmann submitted a Conditional Use Application for property located at 1100 Madison Ave. (PPN 11-A-022-0-00-016-0). The request is a conditional use permit pursuant to requirements as contained in Section 31.03(A)(1) and 12.05(T) for the keeping of hens. The applicant is requesting that the husbandry of a total of 15 hens be permitted.

Chairman found no error in the Zoning Inspector requiring a conditional use permit.
Legal Advisor Jason Hartzell swore in Mary Landsmann to speak in favor of the request.

Mary Landsmann explained that a contiguous neighbor had filed a noise complaint resulting in a letter from the Township letting her know she was not in compliance.

Dave Lindrose asked if there were plans to add roosters.

Randy VanBuren asked that with the word "husbandry" in the application, would that mean a rooster would need to present.

Mrs. Landsmann replied she had no plans for a rooster. The applicant let the Board know she wanted to be able to provide eggs for her family and neighbors.

A discussion was held regarding "husbandry" in the Zoning Resolution, and if the word was needed to be in the request.

Ken Sullivan commented the Board could not allow roosters as part of the variance.

Dave Lindrose made a motion to approve **Case 21-BZA-05** with the conditions as follows:

1. No Roosters
2. In compliance with Section 31.03(A)(1) and 12.05(T) for the keeping of hens.
3. Five (5) year term.
4. Not to exceed 15 hens.

Randy VanBuren seconded.

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

Randy VanBuren made the motion to journalize **Case 21-BZA-05**. Ken Sullivan seconded.

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

- **Case 21-BZA-06:**

Applicants Fred & Carol Cooper submitted a Conditional Use Application for property located at 820 Madison Ave. (PPN 11-A-020-G-00-023-0). The request is to allow continuance of beekeeping activities that have been taking place on the property for several years.

Legal Advisor Jason Hartzell swore in Fred and Carol Cooper to speak in favor of the request.

Fred Cooper explained that he had not known a permit was needed to have bee hives, and that he had been told a permit was needed when he called about another matter. Mr. Cooper asked the Board if he could change his request to not exceed ten (10) hives.

Chairman replied the change could be written.

Carol Cooper asked if the term limit could be extended past five (5) years.

Chairman let the applicant know that a five (5) year term is the maximum allowed.

Carol Cooper presented a letter from contiguous neighbors, Michael and Catherine Iovine, at 840 Madison Avenue; letting the Board know the bee hives were not a nuisance.

Chairman commented that the applicant's property was very well kept.

Dave Lindrose made a motion to approve **Case 21-BZA-06** with the conditions as follows:

1. Not to exceed more than ten (10) hives.
2. Five (5) year term.

Randy VanBuren seconded.

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

Motion carried.

Carol Cooper asked if a notification will be sent out that the permit is expired and needing a renewal. Zoning Inspector Harley DeLeon let the applicants know of a new notification system being introduced soon.

Ken Sullivan made a motion to journalize **Case 21-BZA-06**. Dave Lindrose seconded.

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

Motion carried.

A discussion was held with the applicants pertaining to the renewal process of their permit.

- **Case 21-BZA-07:**

Applicant John Becher filed a Variance Application for property located at 1606 Madison Ave. (PPN 11-A-024-B-00-010-0). The request is to allow a 32' by 40' accessory building built without the benefit of permits to remain on the property unaltered. The subject property also has a legal non-conforming 24' by 40' detached garage on the property. The requested total square footage of all accessory structures on the property is 2,240 sq ft in violation of Section 14.02(C)(4) which provides that the total square footage of all accessory buildings on an R-1 property shall not exceed 875sqft.

Chairman found no error in the Zoning Inspector requiring a variance.

A discussion was held regarding how violations were being found and brought before the Board.

Legal Advisor Jason Hartzell swore in John Becher to speak in favor of the request.

Mr. Becher explained the current structures on his property. Mr. Becher continued that he still needed the space to store materials, tools, and work on hobbies. He built the 32' by 40' structure in question. Mr. Becher let the Board know that the complaint made previously, was gravel and concrete trucks coming

onto his property to build the base of said structure.

Chairman asked how long trucks were coming onto the property to drop off material.

Mr. Becher replied about six (6) months.

Dale Lewis asked the applicant regarding a previous application of a permit.

Mr. Becher replied that he had been denied a permit, but built the structure in question.

A discussion was held regarding clarification for being denied a permit, and requiring a variance for the permit.

Chairman asked when the applicant had applied for a permit.

Mr. Becher replied two (2) or more years prior to the current meeting. Mr. Becher let the Board know that the structure in question has been on his property for over two (2) years.

A discussion was held regarding how big the applicant's property was.

Clarification was needed about what was being approved by the Board. The Board was voting to approve the extra square footage.

A discussion was held pertaining to a building permit being needed, and notifying the building department.

Ken Sullivan made a motion to approve **Case 21-BZA-07**. Randy VanBuren seconded.

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

Randy VanBuren made a motion to journalize **Case 21-BZA-07**. Dave Lindrose seconded.

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

• **Case 21-BZA-08:**

Applicant John Becher filed a Variance Application for property located at 1606 Madison Ave. (PPN 11-A-024-B-00-010-0). The request is to allow three 8' by 40' shipping containers (a total of 960sqft) to be used as accessory structures on the property. Bringing a total proposed square footage of all accessory structures on the property to 3,200 sq ft. In violation of Section 6.18 which provides that shipping containers shall not be considered temporary portable storage units and shall not be utilized as an accessory building and in violation of Section 14.02(C)(4) which provides that the total square footage of all accessory buildings on an R-1 property shall not exceed 875sqft.

Chairman found no error in the Zoning Inspector requiring a variance.

Legal Advisor Jason Hartzell reminded the applicant that he was still under oath.

John Becher explained that the storage units were for storage of personal property he had obtained. Chairman asked if the storage units were meant to be permanent.

Mr. Becher replied no.

Dave Lindrose asked the applicant if the applicant had a date in mind to remove the storage units.

Clarification was needed that two (2) years was needed to keep the storage units on the applicant's property.

Dave Lindrose made a motion to approve **Case 21-BZA-08** with the condition as follows:

1. Two (2) year term.

Clarification was needed from Legal Advisor Jason Hartzell that a condition can be placed on a variance request.

Ken Sullivan seconded the motion.

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

Ken Sullivan made a motion to journalize **Case 21-BZA-08**. Dave Lindrose seconded.

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

- **Case 21-BZA-09:**

Applicants Megan & Arthur D' Alessandro filed a Variance Application for property located at 536 Birkdale Cr. (PPN 11-B-036-C-00-088-0). The request is to allow construction of an eighteen (18) foot by sixteen (16) foot deck with a rear yard setback of 31 feet in violation of Section 32 which requires a minimum rear yard setback of 35 feet.

Chairman found no error in the Zoning Inspector requiring a variance.

Legal Advisor Jason Hartzell swore in Arthur D'Alessandro to speak in favor of the request.

Michael Murray, Attorney representing the applicants also spoke in favor of the request.

Michael Murray explained that the applicants would like to build a deck on the rear of their home. Mr. Murray asked the Board that if the variance is approved, to also journalize the variance.

Chairman asked if the Board had any comments or questions. Hearing none, Chairman asked that the Board make a motion.

Dave Lindrose made a motion to approve **Case 21-BZA-09**. Randy VanBuren seconded.

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

Ken Sullivan made a motion to journalize **Case 21-BZA-09**. Randy VanBuren seconded.

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

Regular Meeting:

Chairman asked if the Board had any edits to the May 11, 2021 Meeting Minutes. Hearing none.

Chairman asked the Board to make a motion.

Randy VanBuren made the motion to approve the **May 11, 2021 Meeting Minutes** as submitted. Ken Sullivan seconded.

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

Old Business: None

New Business:

- **Case 10-BZA-07R21:**

Applicant True North Energy LLC, submitted an application for a Conditional Use Permit renewal on behalf of Shell Mart for property located at 1150 Bank St. (PPN 11-A-007-B-00-006-0). The request is for a 5 year renewal of the existing Conditional Use Permit to operate a gas station and convenience store.

Original conditions are as follows:

- 1) Once the lighting is in place, any lighting issues will be addressed between the residents and the owner.
- 2) The term will be for 5 years.
- 3) The issuance of the permit is based on the purchase, consolidation and rezoning of the property at 819 Liberty St, PPN 11-A-007-B-00-008-0.

Chairman asked Zoning Inspector Harley DeLeon if there had been any complaints of the property. Harley DeLeon replied no.

Chairman asked the Board to make a motion.

Randy VanBuren made a motion to approve **Case 10-BZA-07R21** with the condition(s) as follows:

1. Five (5) year term.

Dave Lindrose seconded.

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

Motion carried.

- **Case 15-BZA-18R21:**

Applicant Zappitelli Enterprises INC, submitted an application for a Conditional Use Permit renewal on behalf of Digging Dogs for property located at 1890 Mentor Ave. (PPN 11-A-014-0-00-016-0). The request is for a 5 year renewal of the existing Conditional Use Permit to operate an instructional facility for dog owners and dog professionals.

Chairman asked Zoning Inspector Harley DeLeon if there had been any complaints of the property. Harley DeLeon replied no.

Chairman asked the Board to make a motion.

Ken Sullivan made a motion to approve **Case 15-BZA-18R21**. Dave Lindrose seconded.

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

Motion carried.

- **Case 16-BZA-09R21:**

Applicant Leiden Woodworking LLC, submitted an application for a Conditional Use Permit renewal for property located at 20 Bowhall Rd. (PPN 11-A-022-B-00-024-0). The request is for a 5 year renewal of the existing Conditional Use Permit to operate a woodworking shop. Previous conditions are as follows:

- 1) Hours of operation will be 8AM to 6PM Monday-Friday and 8AM to Noon on Saturdays.
- 2) Operator will mitigate nuisances as described in Section 22.02(E) upon notice of complaints.

3) Permit is issued for a 5 year term.

Chairman asked Zoning Inspector Harley DeLeon if there had been any complaints of the property. Harley DeLeon replied that a feud had happened with a contiguous neighbor, but nothing had come before the Zoning Office.

Clarification was needed on which property was a woodworking shop, as there's another in the area.

Chairman asked the Board to make a motion.

Dave Lindrose made a motion to approve **Case 16-BZA-09R21** with the condition(s) as follows:

1. Five (5) year term.

Randy VanBuren seconded.

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

Chairman adjourned the meeting at 7:38 P.M.

Next official meeting date is Tuesday, July 13, 2021.

Respectfully submitted,



Tom Hill, Chairman



Rachel Muro, Secretary