

Board of Zoning Appeals Munson Township

Minutes of April 20, 2017

Chair Dennis Pilawa called the meeting to order at 6:30pm with Bobbie Nolan, Joe Tomaric, Danielle Pitcock, Alternates Don Alexander and Tim Kearns and Secretary Paula Friebertshouser present. Alternate Don Alexander served in Gabe Kezdi's place. Court Reporter Kim Giel was also present. The Pledge of Allegiance was said.

Mr. Pilawa explained that the Board of Zoning Appeals is a quasi-judicial Board which acts in the role of judges. 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.

Danielle Pitcock moved and Joe Tomaric seconded to approve the January 19, 2017 minutes as written. Motion carried.

Chairman Pilawa explained that he is an affected property owner in Case 17-01 and would excuse himself if Mr. Medved had a problem with it. Mr. Medved had no problem.

CASE 17-01: Milan Medved 10509 Wilson Mills Rd., Chardon, OH - request to keep an existing garage in front of new residence (to be constructed). Violates SEC. 509.2 No garage or other accessory structure shall be erected within the front yard of any district.

Chairman Pilawa read the variance request and the violation. Zoning Inspector Jim Herringshaw was sworn in. He presented photographs of the property showing the existing building from the driveway and a full photo of the garage.

Milan Medved was sworn in. He explained he would like to construct a new residence farther back from the road. The existing garage is currently used for cars, but would hold lawn and tractor equipment when the new home with an attached garage is built. Mr. Medved explained the existing house would be torn down once the new one is built. When asked what the timeframe would be, he responded he is just waiting for approval from the Board to begin.

Chairman Pilawa stated for the record there were 35 affected property owners notified in Case 17-01.

Larry Reiter of 10441 Wilson Mills Road was sworn in. He commented he is quite familiar with the property and had spent a lot of time there with the previous owner. He explained the building sets to the west and is well guarded by existing trees and really cannot be seen from the road. Mr. Reiter felt this young couple was fortunate to buy the property and are living the American dream. He has seen

changes since they have moved in and they are good neighbors. He had no problem with the variance request. Chairman Pilawa concurred there has most definitely been improvements to the property.

Joe Tomaric moved and Don Alexander seconded that the variance requested in Case 17-01 be granted. Discussion following the motion included that there can be a beneficial use without the variance, but then he would not be able to build; the essential character of the neighborhood would not be altered; adjoining properties would not suffer a detriment; and the delivery of government services would not be adversely affected. Mrs. Nolan added that she appreciated Mr. Reiter coming in to support his neighbor. Upon the roll call, all members voted yes, 5-0; motion carried.

CASE 17-03: Richard Skotzke 12930 Bass Lake Rd., Chardon OH - request to erect a detached garage 4'8" in front of existing home. Violates SEC. 509.2-No garage or other accessory structure shall be erected within the front yard of any district.

Mr. Alexander explained he is an affected property owner but felt he could be fair and impartial. Mr. Skotzke had no problem with Mr. Alexander serving on his case.

Chairman Pilawa read the variance request. Mr. Herringshaw presented photos of the proposed location.

Richard Skotzke was sworn in. He explained he would like to build a detached garage eight to nine feet wider than his home. He felt it would look like it belongs better to center it on the house rather than by following code and having it stick out the back. Mr. Tomaric commented it is a nice design. Mrs. Nolan asked if there is a second floor and why he needed the building. Mr. Skotzke responded there is a second floor and he needs the additional storage for tractors, lawn mowers, and a small shop. When asked if there would be any heat, Mr. Skotzke responded "no".

Chairman Pilawa stated for the record there were 36 affected property owners notified in Case 17-03. There was no public comment.

Joe Tomaric moved and Bobbie Nolan seconded to approve the variance requested in Case 17-03 for a standalone garage 4'8" in front of the home. Chairman Pilawa commented that every factor the Board needs to consider would suggest the variance be granted. Upon the roll call, all members voted yes, 5-0; motion carried.

CASE 17-02: Eric Payne for Brown Barn LLC 10700 Mayfield Rd., Chardon OH - request to split property into three parcels. Proposed Parcel #1: Violates SEC. 521.2 Size of Parking Spaces (in part)-the width of a parking space shall be a minimum of 10' and the length shall be a minimum of 20'. Requesting 10' x 18'; SEC. 521.3 Number of Loading/Unloading Spaces required-commercial and industrial uses permitted in this Resolution shall have at least one Loading/Unloading Space for each use. Requesting 0. SEC. 411 Minimum Dimensional Requirements-Minimum Square Footage Requirements for Structures-Commercial 1,300 sq. ft. Requesting 704 sq. ft. for the smaller structure; Minimum Rear Yard Requirement is 50'-the middle structure is 0' and the larger structure (Brown Barn) is 19' from the rear property line. Proposed Parcel #2: Violates SEC. 411 Minimum lot size requirement is 2.5 acres; proposed is 1.1635 acres; Minimum side yard setback is 20'; proposed is 10'; Minimum setback from

the road right-of-way is 80'; proposed is 52'; SEC. 521.3 Number of Loading/Unloading Spaces required- commercial and industrial uses permitted in this Resolution shall have at least one Loading/Unloading Space for each use. Requesting 0. Proposed Parcel #3: Violates SEC. 411 Minimum lot size requirement in a Flood Prone District is 5 acres; proposed .1456 acres; Minimum frontage requirement at the road right-of-way is 250'; proposed is 44.5'; SEC. 407.2 Permitted Uses and Structures-a sewage treatment facility is not a permitted use or structure.

It was agreed that all facets of the variance request would initially be addressed globally. Chairman Pilawa read the variance request. Mr. Herringshaw distributed photographs of the property.

Todd Petersen and Eric Payne were sworn in. Mr. Petersen explained that 17 years ago Payne & Payne purchased the old general store on the opposite corner and made over the building and property. Now this property needs help. He explained further that the Brown Barn property was tied up in bankruptcy. The former owner, Mark Fuerst, ended up in foreclosure and the property was held by a bank in Indiana. An offer was made by Payne & Payne four or five years ago and their offer was rebuffed. The bank then ended up calling Mike Payne and a price was negotiated for Brown Barn LLC to purchase. They then called Mr. Petersen to see if he were interested in getting involved. Discussions led to Mr. Petersen and his wife Susan opting to purchase the former Fowlers Mill Restaurant with the intention of tearing it down and building a new office building. Brown Barn LLC would continue to own the other buildings on a separate parcel. The package plant would be a third parcel jointly owned by the owners of both of the building parcels. This proposal was okayed by the Health Department and the EPA. The EPA advised them to talk to the PUCO. The PUCO said okay as long as the package plant is owned by the owners of the other buildings it does not become a public utility. It would be deed restricted.

Mr. Petersen showed drawings of a proposed office building and site plan. They are hoping to lease some of the office space downstairs. He explained the Brown Barn is to be a restaurant with the middle building influx. The insides are good but it would take significant work to make it all flow together and could be cost prohibitive.

Eric Payne commented there are a lot of variances from the regulations but the majority are because of the proposed property lines. He commented he has been a resident of the community and works in the community and has been watching the property since it went into foreclosure. His brother Mike and he spent time before they purchased the property to find someone to buy into it with them. He feels it is the first chance to really improve the corner and feels that the Petersen's will make a beautiful addition to it. Mr. Payne explained they are in final negotiations with a restaurateur to allow them to invest in the building. He is unsure about the white building, but hopes there is a need for it. However, if the other buildings are done and there is no interest, it would probably be demolished.

Mr. Petersen commented there have been a lot of variances involving the property. There is difficulty in finding anyone that could do anything with it at this point. He and the Payne's talked over the years about the possibility of condominiums, etc. but this is the first time they feel it makes sense for the proposed uses and to offset costs.

Chairman Pilawa asked if there is a liquor license available. Mr. Payne responded "yes". Mrs. Nolan asked about the driveways and if someone would be able to drive from one to the other. Mr. Petersen responded they would like to try and get rid of some of the asphalt, and really want to keep the properties separate as long as they can do it safely. Mr. Payne added there are elevation issues and they hope to flatten some of the property out with the intention to get a little more "green". Mr. Alexander commented that it looks exciting for the community. He expressed concern that with a restaurant, there are a lot of deliveries, but no accommodations. Mr. Payne explained there are parking spaces in front that could be used as the services would take place generally during off times. Mr. Petersen explained that with their business, they do not receive many deliveries except Staples and a shredding company that comes every other week and would fit in a parking space. Most of their work is downtown. Mr. Alexander asked if there was a designated area for dumpsters. Mr. Payne said a dumpster would be where it was previously located towards the back of the building. He pointed out the dumpster location and where they would take deliveries.

Chairman Pilawa asked if a formal traffic study had been done because he tries to avoid pulling out onto Mayfield from Fowlers Mill Road. Mr. Petersen explained they have given that a lot of thought and that is the reason for a proposed entranceway as far down the hill as possible. There has been no formal study conducted. Chairman Pilawa questioned signs and lighting. Mr. Petersen said they would have a sign on the building. Mr. Payne added that his hope is to design signage with the zoning requirements in mind.

Mr. Tomaric asked what they are going to do with the pavilion. Mr. Payne explained that is unknown at this time. They are trying to come up with a clever use if they can fix it up.

Mr. Alexander questioned if there were any need for an easement with the PUCO. Mr. Petersen responded there might be a global easement as the location of the pipes is unknown. Mrs. Nolan wondered if the EPA had any say in that. Mr. Payne explained they are not involved and that the entire workings except the pipes are on Parcel 3.

Chairman Pilawa noted for the record there were 32 affected property owners notified in Case 17-02.

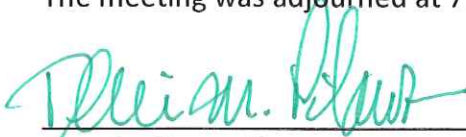
Dean Richmond of Allen Drive wanted clarification of the parcels and looked at the site plan. Charlie Kilfoyle, who owns property two houses down on Fowlers Mill Road, commented that the property has been an eyesore and negatively affects their property values. He felt the proposed uses were creative and was in full support. Fowlers Mill resident Bob Voss, reiterated that Payne & Payne are excellent neighbors and is happy they are revitalizing the Brown Barn as a restaurant. He did express a concern regarding safety with the traffic pattern.


Mr. Tomaric asked Mr. Payne if he has to go to the state to determine acceptance of the apron. Mr. Payne responded yes, ODOT would approve. They plan to keep both driveways. Mr. Payne explained that the sight distances are provided by ODOT. Mr. Richmond also expressed concern with the access drive on Mayfield. Mr. Payne explained he has sat there and tried to imagine what it would be like and his thought is there seems to be a longer sight distance than that of Fowlers Mill.

Chairman Pilawa confirmed with Mr. Herringshaw that the Board discuss and vote on the case as one application.

Bobbie Nolan moved and Danielle Pitcock seconded that the variance requested in Case 17-02 for Brown Barn LLC and Eric Payne at 10700 Mayfield be granted as written. Discussion following the motion included: this is exactly what we want in the Township; there are so few opportunities to make sense for every factor they need to consider; it would enhance the property values; adjoining properties would not suffer a detriment; the delivery of government services would not be affected; whether or not the variance is substantial, it works; and whether the predicament can be feasibly relieved through some other method, this is a good method; and Chairman Pilawa urged the Board to pass this request. Upon the roll call, all members voted yes, 5-0; motion carried.

The meeting was adjourned at 7:45pm.


Dennis Pilawa, Chair 5/18/17
Date


Paula Friebertshauser, Secretary Date
5/18/17