

# Board of Zoning Appeals

## Munson Township

Minutes of April 18, 2018

Chair Dennis Pilawa called the meeting to order at 6:30pm with Danielle Pitcock, Joe Tomaric, Alternate Tim Kearns, Secretary Paula Friebertshauser and Court Reporter Kim Giel present. Don Alexander and Gabe Kezdi were absent. The Pledge of Allegiance was said.

Tim Kearns moved and Danielle Pitcock seconded to approve the February 15, 2018 minutes as written. Motion carried, 3-0.

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.

Mr. Pilawa swore in Jim O'Neill as an alternate member for a two-year term ending on December 31, 2019.

**CASE 18-05: Ken Zbinovec** 9869 Strawberry Lane, Chesterland OH - requests to erect shed in front of home and 20 ft. from the east side property line. Violates SEC. 509.2 (in part) No garage or other accessory structure shall be erected within the front yard of any district. SEC. 411 Minimum Dimensional Requirements - minimum side yard requirement is 25 feet.

Mr. Pilawa read the variance request and violations thereof. Zoning Inspector Jim Herringshaw was sworn in. He explained the photographs that showed property lines, backyard slope, the shared driveway, and proposed shed location.

Ken Zbinovec was sworn in. He explained he and his wife moved in last October from the city. His wife likes the country and wanted a ranch. He would like to have a 10 x 12 shed for a lawn mower and extra storage. The proposed location would be accessible from the driveway. Mr. Zbinovec explained there is not enough room by the existing garage, the backyard is not deep and is sloped, and to remove the retaining wall would cause more problems.

Mr. Kearns commented that he had checked the property and could see where the problem would be if located elsewhere. He said with all the trees no one would see it.

Mr. Pilawa stated for the record that 31 affected property owners were notified in Case 18-05. There was no public comment.

Tim Kearns moved and Joe Tomaric seconded that the variance requested for Case 18-05 for Ken Zbinovec of 9869 Strawberry Lane be approved as written. There was no detailed discussion other than the fact that Mr. Pilawa mentioned that the record should reflect that all the Duncan Factors had been met with the presentation. Upon the roll call, all members voted yes, 5-0. Motion carried. Mr. Zbinovec thanked the members for their time.

**CASE 18-06: Mike Albino** 10010 Sherman Rd, Chesterland OH - as part of a proposed lot split/reconfiguration, requesting 173.99 ft. of frontage. Violates SEC. 411 Minimum Dimensional Requirements - minimum frontage at road right-of-way is 200 ft.

**CASE 18-07: Mike Albino** 10010 Sherman Rd, Chesterland OH - request to keep existing shared driveway for use for proposed lots 1, 2 & 3 as part of a lot split causing it to be 0 ft. from lot lines. Violates SEC. 511 Driveways (in part) driveways shall be a minimum of 15 feet from any lot line.

**CASE 18-08: Mike Albino** 10000 Sherman Rd, Chesterland OH - request to keep existing shared driveway for lot 4 zero (0) ft. from the lot line. Violates SEC. 511 Driveways (in part) driveways shall be a minimum of 15 feet from any lot line.

It was decided that all the cases for Mike Albino would be heard together and then voted on separately. Mr. Pilawa read all three variance requests and violations. Zoning Inspector Jim Herringshaw explained the photographs of the existing driveway taken from different angles and the slope/ravine.

Mr. Pilawa asked if the property was ever split before. Mike Albino was sworn in. He explained he purchased the 137-acre property with the home on it in 1995. It was formerly Robert's Fruit Farm. He let Mr. Roberts live in the house as long as he was living and then it was divided off into a 10-acre parcel (10000 Sherman Road) and the home was renovated. The Albinos built their home on a 32-acre parcel. Mr. Albino introduced Chuck Szucs of Polaris Engineering. Mr. Szucs explained that they are looking to take the parcel that currently has 250 feet of frontage and reduce the frontage to 173.99 feet to create two more parcels. They tried to distribute the frontage to minimize the variance request. He added that the existing driveway would be zero feet from each proposed parcel; and there is an easement with the neighbor for the shared driveway. Mr. Szucs explained they would have to have about 12 feet of fill for the ravine to provide individual driveways and it would be impractical because of the slope.

Mr. Albino pointed out the huge ravine on the photographs. They had the Fire Department out and they agreed that an existing dry hydrant is centrally located to service all homes, and felt it was safer to use the existing driveway as well.

Mr. Pilawa stated that 48 affected property owners were notified in Cases 18-06, 18-07 and 18-08. Dave Wood, the Albino's neighbor to the west, commented that his father also split the property for his family and that it is the American dream to have family living close. He added he would not see any houses and no one would notice. Mr. Wood felt there should be more people like Mr. Albino in the community. Mr. Albino commented that he would not sell his property to anyone; it is only for his family. Mariellen Wood agreed with all that her husband said and felt it was a great opportunity.

Danielle Pitcock moved and Tim Kearns seconded to approve Case 18-06 for a property lot split with 173.99 feet of frontage as written. Discussion following the motion included that all the Duncan Factors had been met with the evidence provided and through withering examination of the applicant all factors are supported. Upon the roll call, all members voted yes, 5-0. Motion carried.

Tim Kearns moved and Joe Tomaric seconded to approve Case 18-07 for an existing driveway for 10010 Sherman Road zero feet from the lot line. It was agreed the same discussion in Case 18-06 be applied. Upon the roll call, all members voted yes, 5-0. Motion carried. Mr. Kearns commented that the people present showing their support is important. Mr. Pilawa added that the request is not substantial; the essential character of the neighborhood would not be altered; adjoining properties would not suffer a detriment; and the Board has evidence that the variance would not adversely affect delivery of government services and the providers prefer it this way; and the spirit and intent behind the zoning would be observed and substantial justice done by granting the variance.

Tim Kearns moved and Jim O'Neill seconded that the variance requested in Case 18-08 be approved as stated. Upon the roll call, all members voted yes, 5-0. Motion carried. Mr. Pilawa commented that the point Mr. Albino made that he was not going to sell to anyone but family was important because the Board is conveying a property right.

The meeting was adjourned at 7:30pm.

  
Dennis Pilawa, Chair

5/17/18  
Date

  
Paula Friebertshauser, Secretary

5/17/18  
Date