

Board of Zoning Appeals

Munson Township

Minutes of April 16, 2025

Chair Dennis Pilawa called the meeting to order at 6:30pm with Danielle Konrad, Don Ondrejka, Jim O'Neill, Joe Tomaric, Alternate Roger Simpson, and Secretary Paula Friebertshauser present. Alternate Carol Maver was absent. Court Reporter Laura Ware was present. The Pledge of Allegiance was said.

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

Joe Tomaric moved and Don Ondrejka seconded to approve the minutes of March 19, 2025, as written. Motion carried, 4-0.

CASE 25-04: Kevin Koch, 10305 Butternut Rd., Chesterland OH – requests to construct a 28' x 34' detached garage in front of the home. Violates SEC. 509.2 Unless otherwise noted herein, no freestanding garage or other accessory structure shall be erected within the front yard of any district, except fencing.

Chair Pilawa read the variance request and violation. Zoning Inspector James Herringshaw was sworn in. He explained the lot is on the southwest corner of Butternut and Mayfield Roads. He referred to the site plan and photos taken of the view of the home from Butternut, view south toward the neighbor's property, of the proposed site off the driveway and the view north.

Kevin Koch was sworn in. He explained that because of a ravine on one side and Mayfield Road on the other it was the only place to put the garage. He added that the home is on an angle. Mr. Pilawa asked how much of it would be in front. Mr. Koch responded probably the whole thing. When asked, he said it would be used mostly for storage, would have electric and be one story.

Mr. Tomaric asked what the distance would be from the ground to the peak of the garage. Mr. Herringshaw responded that it would be 12 feet per the application. Mr. Tomaric then asked where the septic and well were located. Mr. Koch responded that the septic is far behind the home closer to Mayfield and the well is behind the house. Mr. Tomaric asked if it could go anywhere else or be a smaller structure. Mr. Koch explained there is a big runoff and a ravine. Mr. Herringshaw mentioned that because it is a corner lot it has to have a 60-foot setback instead of 25 feet. Mr. Tomaric commented that there is 140 feet to Mayfield Road and felt it is a big barn to be put in front of the house. Mr. Koch explained it is a three-car garage not a "monster" building.

Chair Pilawa stated for the record that there were seven affected property owners notified in Case 25 - 04. Dr. Donna Miller of 10443 Mayfield Road commented that since they moved there Mr. Koch has

improved the property and she offered support for the variance request. Chair Pilawa asked for Dr. Miller's input on the following factors:

- a. Can there be any beneficial use of the property without a variance? Mr. Pilawa commented that clearly there is a beneficial use but it would likely improve the property. Dr. Miller agreed.
- b. Is the variance substantial? Mr. Pilawa commented that compared to other properties the variance does not seem substantial. Dr. Miller said no its not "out of whack".
- c. Will the essential character of the neighborhood be altered? Dr. Miller responded "no".
- d. Will adjoining properties suffer a detriment? Dr. Miller responded, "I think not".
- e. Will the variance adversely affect delivery of government services? Dr. Miller responded, "not at all".
- f. Can the predicament be feasibly relieved through some method other than a variance? Mr. Pilawa commented that it sounds like it is not possible because of the septic/well locations and configuration of the property.
- g. Will the spirit and intent behind the zoning be observed and substantial justice be done by granting a variance? Mr. Pilawa was not aware of the spirit and intent the Board needs to consider in this case but thought Dr. Miller would say yes. Dr. Miller said, "I would".

Danielle Konrad moved and Don Ondrejka seconded to approve the variance requested in Case 25-4. When asked for further discussion, Mr. Tomaric had an objection to the request. He felt Mr. Koch had a beautiful house in a beautiful setting and the garage in front would detract from his property. He felt it could be moved more towards Mayfield Road and make more of a campus. He challenged the spirit and intent behind the zoning. Mr. Pilawa commented that the Board is not permitted to zone for aesthetics. Mr. Koch reiterated that the garage would not really be in front but off to the side because of the angle of the home. He would also be in the septic area if moved toward Mayfield Road. His home faces towards Fowlers Mill Golf Course not Butternut Road. Upon the roll call, members voted as follows: Don Ondrejka, yes; Danielle Konrad, yes; Jim O'Neill, yes; Joe Tomaric, no; and Dennis Pilawa, yes. Motion carried 4-1.

CASE 25-05: Frank Pitchler, Parcels 21-124800, 21-124700, 21-124900 (11570 Edgewood Rd.), Chardon OH – requests to construct a 12' x 20' accessory building 15' from the north side of the property line. Violates SEC. 411 Minimum Dimensional Requirements – side yard setback requirement is 25'.

Chair Pilawa read the variance request and violation. Zoning Inspector Herringshaw referred to the site plan and pointed out there are three parcels. Mr. Pitchler obtained an affidavit of fact or else he would have needed more variances. Mr. Herringshaw indicated that the home is on an unusual corner and referred to photos taken with a view east from Edgewood towards the proposed site, from the corner of Edgewood and Overlook, north view from the proposed site, view east of the rear of the property, and north view toward site, backyard and Overlook.

Frank Pitchler was sworn in. He explained he is requesting an accessory structure to be 15 feet from the north property line. Behind the proposed site is a row of trees so it would not be visible from the south side. Because of the septic location and the requirement to be 10 feet from the septic on the other side, would put the structure in the middle of the yard where the children play. The building

would be used for storage, kayaks, etc. There may be electricity for a light. It would be 10 feet high and standard T1-11 cedar with a metal roof and would fit in with other structures in the area.

Chair Pilawa stated for the record there were six affected property owners notified in Case 25-05. James Brenick of 11646 Maplewood and neighbor to the north was sworn in. He said he spoke with Mr. Pitchler last summer about the project. He does not use his yard that much and had no problem with the location. He said there was a green fence and he doubted he would even see the building. He added they have been good neighbors.

Mr. Pilawa went over the following factors with Mr. Brenick:

- a. Can there be a beneficial use of the property without a variance? There is a beneficial use but it appears there will be more beneficial use with the storage location and the kids play in the backyard.
- b. Is the variance substantial? No
- c. Will the essential character of the neighborhood be altered? it will not be noticed per the testimony and will fit in.
- d. Will adjoining properties suffer a detriment? No.
- e. Will the variance adversely affect delivery of government services? No.
- f. Can the predicament be feasibly relieved through some method other than a variance? The variance is the right solution given the nature and configuration and how it is going to be used.
- g. Will the spirit and intent behind the zoning be observed and substantial justice be done by granting a variance? Yes.

Don Ondrejka moved and Jim O'Neill seconded to approve the variance requested in Case 25-05 as written. Motion carried, 5-0.

CASE 25-06: Jonathon Herman, 12210 Bean Rd., Chardon OH – requests to construct a 50' x 80' detached garage in front of the home. Violates SEC. 509.2 Unless otherwise noted herein, no freestanding garage or other accessory structure shall be erected within the front yard of any district, except fencing.

Chair Pilawa referred to an email Ms. Konrad had sent to the Board as it relates to her close relationship with the applicants. He felt she has served a long time and there is no evidence that would keep her from being fair and impartial. Members and those in the audience did not think she should recuse herself.

Chair Pilawa read the variance request and violation. Inspector Herringshaw referred to the site map and mentioned the structure would be 330 feet back from the road right-of-way. The driveway extension would be off the current drive. He referred to photos taken showing the view north towards the home and the approximate distance of the proposed site; a view north from Bean; proposed site and view west; and the view east from the proposed site. He added that the trees block everything and there is an older structure on the property.

Mr. Ondrejka asked about the enclosed photo of a structure. Mr. Herringshaw clarified that it is an idea of what the structure would look like.

Jonathon Herman was sworn in. He explained the building would be set way back and there is nowhere to go behind the home. He mentioned the neighbor's home is way up front. He said there is a preserve on the west and north sides; the septic is in front and the well in back. The lot is a bowling alley shape. When questioned about the size of the building, Mr. Herman responded he has a lot of cars. He would not put in electricity up front because of the expense and it would not be heated. Mr. Ondrejka confirmed the location of the septic system.

Chair Pilawa stated for the record that six affected property owners were notified in Case 25-06. There was no public comment.

Don Ondrejka moved and Joe Tomaric seconded to approve the variance requested in Case 25-06 as written. Discussion following the motion included the following: there can be a beneficial use but as explained there are reasons why the structure needs to be in front; the variance is not substantial as there is no one present to oppose; the essential character of the neighborhood would not be altered as there is no evidence and it would not be seen; adjoining properties will not suffer a detriment, again, as there is no evidence and typically someone comes in to oppose; the delivery of government services will not be adversely affected; the predicament cannot be feasibly relieved through some other method as there is no testimony for the location; and the spirit and intent behind the zoning would be observed. Chair Pilawa added that in relation to the spirit and intent none of those present were young enough in 1948 when zoning was first written. As long as the variance request meets the Duncan factors it has been observed and substantial justice has been done. Upon the roll call, motion carried 5-0.

The meeting was adjourned at 7:23pm.

| | |
|--|--|
|  |  |
| <u>Dennis Pilawa, Chair</u> | <u>Paula Friebertshauser, Secretary</u> |
| <u>5/21/2025</u> | <u>5/21/25</u> |
| Date | Date |