

MINUTES BZA 4/11/2022

MINUTES FOR THE REGULAR MEETING OF THE CHESTER TOWNSHIP BOARD OF ZONING APPEALS HELD MONDAY, APRIL 11, 2022, IN THE TOWN HALL MEETING ROOM

Mr. Barton Ziganti called the April 11, 2022, Chester Township Board of Zoning Appeals meeting to order at 7:07 pm.

Mr. Ziganti asked all adults present to sign in at the lectern with their name and address.

Roll Call

Present: Ms. Klemm, Mr. Pona, Ms. Sritalapat, Mr. Wittine*, Mr. Ziganti

Absent: Ms. Fadorsen

*Mr. Wittine (alternate) served in place of Ms. Fadorsen

Zoning Inspector: Ms. Berglund

Admin Assistant: Ms. McCarthy

Mr. Ziganti led Board members and audience in the Pledge of Allegiance.

Mr. Ziganti welcomed everyone to the regular meeting of the Chester Township Board of Zoning Appeals, explained the public hearing process and stated that anyone who wishes to testify will be sworn in.

Application 2022-02 (Continuation)
Douglas Bletcher/Owner
Ivy Garth Seeds
8422 Mayfield Road

Applicant is requesting an area variance for an addition to the existing building and is seeking a 22% area variance from Section 5.02.03 A3. The property is located in a General Commercial (C) district.

Mr. Pona swore in all persons wishing to testify in the case.

Ms. Berglund summarized case with appellant seeking an area variance for an addition to the building. The northeast corner of the existing building is 17.9 feet from the eastern property line. The northeast corner of the proposed addition (extension of the building in the rear) would be 14.3 feet from the eastern property line. The applicant, Douglas Bletcher, is seeking a 28.5% area variance from Section 5.02.03 A3 and 20.1% area variance from existing building layout.

Mr. Bletcher waived the reading of the appeal notice.

Mr. Bletcher: We have provided to Galina a response from the Fire Department which says he sees no difficulty in the building extension being 14' 3" from the neighbor. We submitted an email from our neighbor about being this close to their property. We

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submitted a drawing showing where the runoff would go along with the dimensions of the addition.

Mr. Pona: Mr. Chair, we don't have that letter from the neighbor. (No letter was on file.)

Mr. Ziganti: In summation, the Fire Dept. did not have any concerns from the adjacent property.

Mr. Ziganti: My first question is the new drawing is this is a new drawing. The proposed height of the proposed addition would be at the ridgeline of the existing building of 24' 6"?

Mr. Bletcher: Yes

Mr. Ziganti: You are proposing the addition be in line, which places it an angle to the eastern property line and it gets to within 14' 3" of a structure on the adjacent property?

Mr. Bletcher: Yes

Mr. Ziganti: Would you discuss the concerns about the loss of parking spaces and the concern about the runoff?

Mr. Bletcher: The parking spaces, we lose five. We can pick up five in the back of the lot in a number of places. The runoff presently has gutters that drain into a downspout that drains into a pipe that goes out to the rear of the property that goes to an existing 6" storm drain 110' north of the north end of the addition. That's where we're going to put this runoff as well. The addition being on asphalt isn't detracting from green space at all.

Mr. Ziganti: So that drainage goes to a catch basin?

Mr. Bletcher: Yes

Mr. Ziganti: Questions from board members?

Ms. Sritalapat: Is the parking at the rear of the building to be paved or is that a gravel parking area?

Mr. Bletcher: The existing parking is paved. There's gravel beyond that. If it's needed, we will park back there also. But we actually don't use it.

Ms. Sritalapat: So, the parking that you're showing on the second plan, may or may not be needed beyond the proposed addition?

Ms. Bletcher: That's right.

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Ms. Sritalapat: If it is needed, will it be pervious?

Ms. Bletcher: We aren't going to do any additional paving.

Mr. Ziganti: For the audible record, that was the Chagrin Valley Engineering drawing.

Mr. Wittine: The proposed building will have footers? It's not sitting on top of the asphalt or anything?

Mr. Bletcher: If you knew our architect, the footers will probably go down 20'.

Being no more questions from the Board, Mr. Ziganti asked for questions from the audience.

Ms. Margaret Muehling: Mr. Bletcher, when you bought the property, were you aware there was a previous variance on it?

Mr. Bletcher: Actually, no.

Ms. Muehling: I asked Galina if she could find the variance that permitted them to move to a 17' 9" area to where the existing building is now. She could not find a variance. Which means this is probably an illegal building. We're looking at the possibility of an illegal building.

From the southwest corner – the existing addition is probably illegal. That happens sometimes when a builder proposes a building, turns the plans in and they are OK'd and then he doesn't build according to the plan he has proceeded. It's not caught in the final checking. So, I think that this is a housekeeping that needed to be taken care of. However you proceed, if you proceed, make sure you proceed with bringing the building into compliance so there are no future problems.

Mr. Ziganti: For the audible record, Margaret Muehling is speaking as one of our alternate BZA members. What she has indicated is that we are looking at giving a variance on an addition that never had a variance granted to add onto the original structure that was present on the property. Indeed, we've had incidences like this in the past. Where it is a housekeeping matter to make sure we don't grant variances on something that isn't permitted. Mrs. Muehling, do you have something else to add to that?

Mrs. Muehling: No, I just wanted to point out we have a housekeeping issue.

Mr. Ziganti: Mr. Bletcher, do you have questions for Mrs. Muehling?

Mr. Bletcher: Not for Mrs. Muehling, I just appreciate any additional understanding you can give me. My guess is when we called the surveyor to make sure everything was right..., I think in 1920 it was customary to build the buildings parallel to the street, so

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the house is parallel to the street. What people maybe didn't think about was that the north south lines are not perpendicular to Mayfield Rd. They're just enough angles off that they apparently didn't think about it.

Mr. Ziganti: Questions from the audience?

Mr. Mike Joyce: What Mrs. Muehling said is true, but I would offer an additional scenario. You would have to go back at the time of the building to find out what setbacks were allowed to find out whether that is grandfathered or not and therefore it would be a legal non-conforming use if it is grandfathered. Have you checked for that?

Speaking for all the other Zoning Inspectors I have ever met, since they cannot go back to 1948 and review everything that has been passed in the township, you have to assume when you go into it that everything was done correctly. That is probably why your surveyor never looked at it. You really don't have a lot of choice. You can't go back to 1948. A lot of what we have are legal non-conforming properties.

Mrs. Muehling: I'm just concerned that we don't want to issue a variance that causes him difficulty. If this variance is permitted, he should be secure in the fact that whatever he does in the future is not going to be difficult to do. I think he complies in all other regards.

Mr. Ziganti: Bringing it back to the Board, I'd like to discuss what we have heard from two knowledgeable sources.

Mr. Wittine: At the time of purchase, there are disclosures to sign. Wouldn't that disclose that there are variances on the property? Not necessarily going back to 1948, but maybe 2010 when the property was purchased.

Mr. Ziganti: My thought is, can we determine when the addition was put on?

Mr. Wittine: I would think it would be shown on the deed.

Mr. Bletcher: There are records on that at the county. I think the timing of those records is the late 1980's.

The Board recognized the previous Zoning Inspector, Mike Joyce.

Mr. Joyce: We need to go back to those records and see what the zoning setbacks were at that time.

Ms. Sritalapat: With that being said, the lot is smaller than the 100' lot width so there's wiggle room there on how setbacks could be designed. Regardless on what the zoning was, there's still a clause that could potentially permit less than a 20' setback.

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Mr. Joyce: You could put in your minutes that in this case, the current location is acceptable to the BZA. Therefore, there would be no need to go back. It would then become conforming per the variance passing.

Mr. Jeff Fanger: I speak in favor of Mr. Bletcher. Including this in the minutes makes sense including mentioning Mr. Bletcher's property and the property next to it. I doubt that building was built in the 1920's, but it clearly doesn't have the setback like the property next door also has no set back so I think it is very credible to believe that there was no permanent setback. I would support the suggestion that was made, you simply have the minutes reflect that. My business or the business next to me has no setback either. I don't see how it can harm anyone. Rather than spending resources on doing research for the sake of research, I think you consider making it clear that this property is in compliance.

Mr. Ziganti: In the past anytime there was a modification, to that grandfathered structure, that would always come before the board for granting a variance. I don't think the issue is when the structure was built, rather it's we determine if the addition in the 1980's was done correctly, then we could go ahead with this single variance request. But, if that addition was put on incorrectly, I think we, the board would have to recognize that as a reality and then figure out how to approve that before we go ahead building onto something that addition shouldn't be there in the first place.

Mr. Pona: How would we know the requirements from the 1980's? My approach is different. They're coming before us asking for an area variance, there's an existing structure, how that structure got there or was approved is of no concern to me. I'm concerned about their area variance request tonight. If they're making it align with an existing building, that's my only concern.

Mr. Ziganti: Well, we could go back and look at what resolution was in place in the 1980's. Again, that's what we had to do in the past with grandfathered structures.

Mr. Ziganti: We as a board need to determine what we are going to do. Someone should make a proposal for some action that we take before we continue the variance in front of us.

Mr. Pona: I am not interested in continuing this case again for us to research records from 1980. There's an existing structure, we have a request to add additional footage to that structure and that's the way I look at it. I'm not interested in asking for a continuance.

M. Ziganti: I'm asking for a motion to perhaps accept the existing structure as is and perhaps we can move forward with an area variance.

Mr. Pona: I'm not trying to be difficult. I don't think that's necessary.

Mr. Wittine: I will make a motion to accept the existing structure as is.

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Mr. Pona: Again, I'm not trying to be difficult, but what does that mean?

Mr. Wittine: It just acknowledges this building exists with less than a 20' variance. If we acknowledge it's been grandfathered in, that saves us from doing research that probably will end at the same point.

Ms. Klemm made a motion that we continue with the application before us. Mr. Wittine seconded it.

Ms. Sritalapat – Yes; Ms. Klemm – Yes; Mr. Pona – Yes; Mr. Wittine – Yes; Mr. Ziganti – Yes

Mr. Ziganti: For the record, Mr. Bletcher, what is the size of this addition?

Mr. Bletcher: 1500 square feet.

Mr. Ziganti: We will call this portion of the meeting complete and we will vote on this matter later this evening.

Application 2022-04 (Continuation)
Property owner, Karen Kossman
12811 Kenyon Drive

The property owner is requesting an area variance to add an addition to the front of the garage. The applicant, Howard Feuer, is seeking a 19% area variance from Section 5.01.17. The property is located in a R5A district. Mr. Joe Ferrante will also be speaking on behalf of Ms. Kossman.

Ms. Kossman waived the reading of the appeal.

Mr. Pona swore in all persons wishing to testify in the case.

Mr. Ferrante: It's my understanding we talked about putting this garage on the rear of the building. Then we talked about putting it on the side. Now we are talking about putting it on the front. So, we need 13' to bring it forward. Our client wants this garage so she can protect her cars that are 50 some years old. We've talked to the surveyor and now it's just a matter if we can be approved to come forward with the garage.

Mr. Ziganti: Would you please state the practical difficulty you are having with your property in asking for this variance?

Ms. Kossman: The vehicles that are currently in the garage are 18' long. My ex-husband left one of the vehicles to my daughter who is currently in college. That leaves my winter, daily driver outside in the elements. Ice and snow are a difficult issue. I really want to put my daily driver in the garage.

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Mr. Ziganti: Last month the issue was the Right of Way was not referenced by your surveyor or the center line of Kenyon Drive and that was the issue. We need to consider the variance request and have a way of measuring that percent. We the board look at if there is a practical difficulty with the land and we also look at the calculated percent variance request from what is permitted. We didn't have all that information last month in order to make an accurate assessment. Thank you for what you have supplied today.

Mr. Pona: Am I correct that the proposed addition to the garage will measure 20' by 19'? So, it's 19' forward toward Kenyon Drive?

Mr. Ferrante: Correct

Mr. Pona: Do you know the distance between the front of the proposed garage to the center line of Kenyon?

Mr. Ferrante: I don't have that in front of me.

Ms. Berglund: We have a distance from the garage they already have... They are asking only for 13' to be within that 70' from right of way or 100' from center line. The garage sits back, so they need to bring 19' out, but they are asking for 13'. Because they have 6' from setback of the garage. Now we have the distance 67.5' plus 19' that is the distance from what they have right now. It would be 76.5' from the right of way to the existing garage is 76.5'. It should be 70' from right of way so they do have that 6' already. They need 19' to build an addition. They're asking for an additional 13'.

Ms. Sritalapat: I have a clarification question. On the plan for Kenyon Drive says 60'. Does that mean the road is 60' wide?

Mr. Ziganti: It typically means that the allowed for width has to be within that 60' width or easement. That 60' is the right of way in which the road has to be placed. It could be set to one side or the other or right in the middle. You never know.

Mr. Joyce: We really don't know if it means it goes to the center line or the right of way. They do both in different situations.

Ms. Sritalapat: OK. We have the measurements from the outside of the proposed addition to the right of way line. But I did not see the measurements from the outside of the proposed addition to the center line of the road. So I wasn't sure if an assumption could be made if the road is 60' wide, if I'm doing my own math, the center of the road would be 30' from the Right of Way.

Mr. Ziganti: Our surveyor's drawing shows the center line is located what appears to be in the middle of the 60' allowed for easement. The surveyor is marking that as the center line which means Kenyon Drive is centered in that right of way. We're making

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that assumption. The only measurement that we have is 57.5' and 16.3'. We don't have an actual measurement to the center line. We're basing this off the right of way and the 70' requirement.

Mr. Pona: But, the requirement for a minimum front yard is whichever is greater. 100' from the center line or 70' from the right of way, whichever is greater.

Mr. Pona: So this is a 13% variance?

Mr. Ziganti: Actually 12.7% variance. To Mr. Pona's point, we don't really know exactly where the center line is. We are assuming the center point of Kenyon Drive is in the center of the road. We have the right of way measurement and that should be good.

Mr. Ziganti: We wanted to know what the dimension of this addition would be. Is the height of this addition going to match the ridgeline of the existing house?

Mr. Ferrante: Correct.

Mr. Ziganti: Any sworn audience members who wish to direct a question to the builder?

Ms. Muehling: Will the driveway remain as is?

Mr. Ferrante: Correct.

Ms. Muehling: I went through the applicant's description of hardship. Hardship depends on the land. I think she does have a hardship. I didn't previously. I think her hardship is the contour lines on her lot. Did we not have a contour survey of the property? I thought we got them from Geauga REALink. I think that is a hardship. Looking at the times they tried to solve the problem and each time they ran into slope problems.

Ms. Muehling: I did go down Kenyon Drive and look at the houses. They all fall directly in line. She however is not on a corner or in the middle of the block, so her extension would not necessarily be an intrusion on the lines.

Mr. Ziganti: Are there any other questions for the builder? None. Any further questions of the Board members? None. Anything else that you two (the applicant and builder) would like to add?

Ms. Kossman: No.

Mr. Ziganti: The last thing we need to do is look at Form #4. Is the area variance request number on these correct?

Ms. Berglund: Yes, it's Z-2022-4.

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Mr. Ziganti: What we are doing now is making sure that the original application matches what we have here tonight. If we have to make any changes, we'll ask one of you to come forward and initial any changes.

Mr. Ziganti: We need to make sure we have it correct in the record. We are agreeing on 17.85 rounded up to 17.9 is the % variance request.

Mr. Ziganti: Before we close the public portion of this appeal, are there any other questions? --None were presented.

Mr. Ziganti: We will begin discussing the appeals in front of us.

Mr. Pona: I move to accept appeal Z-2022-02. Ms. Klemm seconded the motion.

Mr. Pona: I'm considering the practical difficulty considering the configuration of the lot and the existing building that they want to add to. I'm also looking at the variance is not substantial and finally, there's really no adjoining property owner that would suffer substantial detriment as a result of this variance. For these reasons, I would be in favor of granting the variance of the first appeal.

Mr. Wittine: I would add to those comments. I appreciate the Fire Chief providing the letter of assessment. This helps me make this decision.

Ms. Klemm: I agree with Mr. Pona and Mr. Wittine.

Ms. Sritalapat: Per the current Zoning Resolution, this building seems like it is already slightly out of compliance. And the Zoning Resolution as it stands now would make this building with the new addition even more out of compliance. In the nature of the Zoning Resolution, I am leaning towards not approving.

Mr. Ziganti: I think this appeal has developed into something interesting. I am glad we agree that whatever our decision is on this request for a variance, we are going to put into Findings of Fact that we have reviewed that the existing structure as is may or may not have been grandfathered in. I appreciate the fact the Fire Department has reviewed the proposed addition and they don't have a safety concern. I believe the practical difficulty for this particular business is to maintain flow and the environment of the seeds be kept viable. I'm in favor of this from a practical standpoint of making this business viable. Any other discussion?

Roll Call:

Ms. Sritalapat – No; Ms. Klemm – Yes; Mr. Pona – Yes; Mr. Wittine – Yes; Mr. Ziganti – Yes

Mr. Ziganti: The variance request was passed and we are doing a Findings of Fact.

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Findings of Fact
8422 Mayfield Road
Douglas Bletcher representing Ivy Garth Seeds

A request to place an addition on an existing warehouse. That addition request is for a 1,500 square foot structure to follow inline with the existing warehouse. This is a 28.5% area variance. The addition will be 14' 3" from the east property line. During the presentation the board was made aware of the existing warehouse was added circa 1980 and the board could not determine if that addition was grandfathered in or met zoning requirements of 1980. The board felt comfortable with indicating, based up on the years of existing business and structure, the board could move forward with considering this area variance request. The applicant verified with the Chester Twp. Fire Department that the addition of this structure would put it closer to the eastern property line than is allowed for and would not be detrimental to providing safety services. The applicant indicated drainage on site would be handled by running captured water to an existing 6" drain line which discharges to an existing drain basin. The concerns about the existing parking lot being paved by additional structure was not a concern. The drawings showed that the proposed height of the addition would follow the existing ridgelines. We the Board incorporate into these Findings of Facts the applications and exhibits of the appeal including all corrections, clarifications and additions.

MOTION to accept Findings of Fact (Z-2022-02)

Mr. Pona moved to accept the Findings of Fact. Mr. Wittine seconded

Ms. Sritalapat – Yes; Ms. Klemm – Yes; Mr. Pona – Yes; Mr. Wittine – Yes; Mr. Ziganti – Yes

Mr. Pona made motion to approve Z-2022-04; Ms. Sritalapat seconded

Discussion –

Mr. Wittine: I understand emotional appeal and constraints of the property. Also, I recognize the willingness of appellant to make modifications and to be flexible. I would have liked to have heard from more neighbors.

Mr. Pona: One of the concerns initially was from Fire Chief. His letter of March 14 stated a better solution would be to extend the garage toward the street which the applicant has done. It's not a substantial variance request, so I am in favor of granting the request.

Ms. Klemm: Agrees with Mr. Pona.

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Ms. Sritalapat: In meeting from last month is why the Fire Chief comment was said. By building your addition in front, you mitigate that risk. It also is something that will stand out as all the other houses on the street line up. I lean toward not approving this.

Mr. Ziganti: Originally, I did not think there was a proven practical difficulty with this area variance request. I felt the addition could easily be done by putting the required square footage on the back of the garage by moving or losing the existing shed. During testimony we couldn't determine when the shed was built. In my estimation, that would have allowed the applicant to bump out the entire back of the garage to the originally requested square footage. Visually, we're not supposed to speak of that, but visually it would make a lot more sense to put the addition on the backside. I'm not in favor of this based on no demonstrated practical difficulty.

Roll Call:

Ms. Sritalapat – No; Ms. Klemm – Yes; Mr. Pona – Yes; Mr. Wittine – No; Mr. Ziganti – No

Findings of Fact
12811 Kenyon Drive
Karen Kossman

Applicant requested a 20' x 19' addition onto the front of the existing attached garage. This would have placed the front of the proposed addition to be within 57 ½ feet of the right of way requiring a 17.8% variance. The applicant indicated the proposed addition would match the ridgeline of the existing house. There was discussion on practical difficulty behind this request. We the Board incorporate into these Findings of Facts the applications and exhibits of the appeal including all corrections, clarifications and additions.

MOTION to approve Findings of Fact (Z-2022-04)

Mr. Wittine moved to accept the Findings of Fact. Mr. Pona seconded

Ms. Sritalapat – Yes; Ms. Klemm – Yes; Mr. Pona – Yes; Mr. Wittine – Yes; Mr. Ziganti – Yes

Meeting minutes of March 14, 2022 were reviewed and corrected.

MOTION to accept minutes as amended by Ms. Klem; Mr. Wittine seconded

Ms. Sritalapat – Abstain; Ms. Klemm – Yes; Mr. Pona – Yes; Mr. Wittine – Yes; Mr. Ziganti – Yes

Ms. Klemm: I was at the last two Zoning Commission meetings and I would like to give input to the board. Advanced Auto that came to us is now asking the Zoning Commission for a change in Commercial Zone. It's out on Mayfield, across from the Industrial Park. They are currently zoned Residential and want to be zoned Commercial. Info presented by Dave Dietrich and Mr. Tranchita. The issue is it is a

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500' setback which is a little further than some of the other commercial zones along there. It's not going to be an even setback. The Zoning Commission is taking it under advisement and discussing it at their next meeting. That's one of the reasons our April 20th meeting with them was pushed back to May 5th. They also mentioned having an additional line on the Zoning Application form to add Fire and Safety. Not sure who approves/takes the lead on this.

Ms. Klemm: Bremec's came and said they would like a digital sign. Zoning Comm. said we have not updated signage guidelines in a long time. This board can expect a variance coming from Bremec's in the near future.

Ms. Klemm: Board of Trustees correspondence about an Ohio proposed law stopping communities from restricting Airbnb's. The Zoning Commission would also like to discuss how the height is measured in a structure.

Mr. Wittine: I was at BOT meeting when report was submitted.

Mr. Ziganti: They were calculating height of buildings from a totally different perspective. Mr. Joyce, how did you calculate the height?

Mr. Joyce: The height of the wall, halfway to the peak. Every contractor I have ever talked to has never heard of such a way of measuring.

Mr. Wittine: We need a drawing to describe exactly how we are measuring it.

NEW BUSINESS

The County Prosecutor initially indicated we were allowed to keep Draft minutes within the confines of the group. Now the Prosecutor is saying that is Public Record and we must release on request. It is a work in progress. Going forward, that is the position we need to take based on the Sunshine Laws.

Mr. Ziganti read the Findings of Fact statement: We the Board incorporate into these Findings of Fact the applications and exhibits of the appeal including all corrections, clarifications and additions.

Meeting was closed at 9:30 p.m.

Approval Date May 9, 2022

Kathleen McCarthy, Secretary

Barton Ziganti, Chairperson