

**Brunswick Hills Township  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
March 10, 2018**

**PUBLIC HEARING MEETING**

**Call meeting to Order:** Chair Bitto called the Brunswick Hills Township Board of Zoning Appeals Public Hearing Meeting to order at 7:05 p.m.

**A Roll Call of the Board was Executed**

- **Board Members in Attendance:** John Bitto (Chair), Chris Schigel (Vice Chair), Cliff Kersten, Jessica Murphy
- **Alternate Board Members in Attendance:** Daryl Lucien, Bob Yanacsek
- **Board Members Not in Attendance:** Kim Hall
- **Others in Attendance:** Trustee Michael Esber, Zoning Liaison; Evelyn Czyz, Zoning Inspector

Alternate Board member Daryl Lucien was seated in the absence of Ms. Hall. Chair Bitto stated a full Board is present and the meeting has been properly advertised; the Brunswick Hills Township Board of Zoning Appeals acts within the authority of Sec. 519 of the Ohio Revised Code.

**Swearing in of Board Members:** Trustee Michael Esber swore in Bob Yanacsek to a one year appointment as Alternate Member of the Board of Zoning Appeals.

**Swearing in of the Zoning Inspector:** Chair John Bitto swore in Ms. Evelyn Czyz, Zoning Inspector for the Public Hearing.

**Approval of Minutes:**

1. Approval of January 10, 2018 Organizational Meeting Minutes
2. Approval of January 10, 2018 Regular Meeting Minutes

Mr. Bitto called for edits/changes to the minutes. Being none he called for a motion to approve. **Motion:** Mr. Kersten made a motion to approve the January 10, 2018 minutes as submitted by the Secretary. Ms. Murphy seconds. **Roll Call:** Mr. Lucien-yes; Ms. Murphy-yes; Mr. Kersten-yes; Mr. Schigel-yes; Mr. Bitto-yes. Motion carries to approve minutes from January 10, 2018.

**Continued Business:** None

**New Business: Variance Requests**

**Patrick Logan, 241 Newport Circle, Brunswick, Ohio 44212** (The Landings); PP#00102A07024; Zoning District: R-1.

Chair Bitto stated we have two cases tonight; and our Zoning Inspector has been sworn in. He announced to the audience that if anyone has any questions or comments, they must be directed to the Board Only.

1. **Request #1 @ 241 Newport Circle:** Intent to build an Open Frame porch to the rear of the proposed Accessory Building (Garage) and to build an exercise room above the open frame porch which increases the height limitation of fifteen (15) feet to the peak per Sec. 303-6, 4.General Regulations of Structures and Construction.

Mr. Bitto stated the first request is a variance to get the height of the building and the second request is for where he wants to place the building. Mr. Bitto called the applicant to the podium.

**Testimony & Evidence: Applicant**

**Mr. Patrick Logan, 241 Newport Circle, Brunswick, Ohio was sworn in** and asked to present his request/case. Mr. Logan stated we (and Mrs. Logan) both have brand new knees so we wanted to put a workout room in the proposed building upstairs. He stated it is a two car garage, but it has a three car footprint because one is for the porch. Mr. Logan stated he was thinking of doing radiant heat in there for upstairs and the garage floor too. Mr. Bitto asked if there is a reason why it has to be that high in that spot. Mr. Logan said because the pitch of the roof is 24 feet, 8 inches. Mr. Bitto said ok, and it matches pretty close to the existing house? Mr. Logan stated yes.

**Questions by the Board:**

Mr. Schigel asked if the front of the roof that is facing the street (referencing the picture / Logan Exhibit: 1), or is it the other way around? Mr. Logan stated he has a blueprint with him and approached the Board for them to review the blueprint for the elevation, etc. (Note: blueprint not submitted for the record). The Board and the Zoning Inspector reviewed the blueprint. Ms. Murphy stated and that is going to face the street? Mr. Logan stated the end of it will and we are going to put in two windows instead of one so it matches the garage (existing garage). Mr. Schigel said ok, so the patio is on the back side then? Mr. Logan confirmed the back side. Mr. Schigel said so that peak is going to match the peak on the front of your house right there? Mr. Logan stated yes. Mr. Lucien asked if this request is not approved, do you have a plan B? Mr. Logan stated not really. Mr. Schigel asked, the way I understand it the front of the building is it on the same plane as the garage? It looks like it is about the same. Mr. Logan stated that's the intent.

Chair Bitto asked the Zoning Inspector, am I wrong in saying if the building that is proposed was attached to the existing house, there wouldn't be any height restrictions? Ms. Czyz, Zoning Inspector stated if the building were to be attached to existing house that is correct. She stated there would be a restriction because it can only be 35 feet in height, but since it is an accessory building and because it is being detached from the original home, thus the reason for height. Ms. Czyz stated also the location of the proposed garage because it goes beyond the front of the home. She said the only thing that can go on beyond the front of the home is terrace or a porch and that can only go out 10 feet. Mr. Bitto said one is a dwelling and one is a garage by definition. Mr. Bitto said but if it was attached it would be no problem height-wise to match the peaks. Ms. Czyz stated that is correct.

**Public Testimony & Evidence:** None

**Review of the Duncan Factors:**

Sec. 1005-1 Area Variances / Duncan Factors

Where the appeal or application requests an area variance, that is, a variance involving provisions relating to yard dimensions, setback, height, or similar spatial or dimensional requirements, then the following standards shall be considered and weighed in determining whether the grant of a variance is warranted to afford relief of practical difficulties:

- A. **Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.** *Mr. Kersten stated there could be beneficial use of the property without the variance. Mr. Bitto stated he agreed with it. Mr. Lucien asked if we are just*

addressing the height variance at this point? Chair Bitto stated correct. Mr. Lucien responded “no” to this Duncan Factor. Ms. Murphy stated yes. Mr. Schigel stated yes and Mr. Bitto stated yes.

- B. Whether the variance is substantial.** All Board members stated yes.
- C. Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** Mr. Kersten stated no. Mr. Lucien stated no due the Homeowner’s Association pre-approval. Ms. Murphy stated no. Mr. Schigel stated yes. Mr. Bitto stated no.
- D. Whether the variance will adversely affect the delivery of governmental services.** All Board members stated no.
- E. Whether the property owner purchased the property with knowledge of the zoning restriction.** The Board stated this was not addressed. Mr. Bitto stated he did not believe it was a point. Mr. Lucien stated he didn’t either but it wasn’t addressed. Mr. Kersten stated it wasn’t addressed so skip over it.
- F. Whether the property owner’s predicament can be obviated through some method other than a variance.** Mr. Lucien stated yes. Ms. Murphy stated yes. Mr. Kersten-yes. Mr. Schigel-yes and Mr. Bitto stated yes.
- G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** All Board members stated yes.
- H. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Mr. Lucien stated yes and referenced the cell box. Mr. Bitto stated no. Mr. Schigel stated no. Ms. Murphy stated no.

End of Testimony and Evidence.

**Motion to Approve Variance Request #1 for 241 Newport Circle**

The Chair stated he will accept a motion to approve the proposed structure in excess of 15 feet but no higher than the existing house/dwelling peak. **Discussion:** Ms. Czyz stated to the Chair, even if the house was 32 feet, they could build it to 35 feet which is the height maximum. She said so they could still build it three feet higher to the peak than the original home. Mr. Bitto stated he did not believe their intent is to build any higher. Ms. Czyz stated she understands that but in the motion it said no higher than the existing structure. Ms. Czyz stated they could actually to higher than that virtue of the resolution. Secretary Milanko said so what she is saying is you should go for what they are asking. Ms. Czyz stated and that is 9 feet, 4 inches.

**Motion:** Mr. Schigel made a motion to grant the variance to exceed 15 feet by the allowance of 9 feet, 4 inches. Ms. Murphy seconds the motion. **Roll Call:** Mr. Kersten-yes; Mr. Lucien-yes; Ms. Murphy-yes; Mr. Schigel-yes; Mr. Bitto-yes. Motion carries to approve by 5 yes votes and 0 no votes.

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2. **Request #2 @ 241 Newport Circle:** Intent to build an Accessory Building (garage) to the side of their existing garage. The Accessory Building that is proposed to be built will extend beyond the front of their home by twenty-four (24) feet per Sec. 303.5 C-6.

**Testimony & Evidence**

Mr. Logan (still sworn in) was called to the podium. Chair Bitto stated to the applicant that he needed to understand the reason for the setback of where you want to put it other than appearance; is there anything else? Mr. Logan stated that cell box (Logan Exhibit: 2) that is on the pole. He stated he doesn't know who put that up there and he's trying to find out. He said it makes noise when its 70 degrees out and there is a fan that goes on and it's driving me and my wife nuts. He said he can put up with the traffic, but when there is no traffic it makes all kind of noise. He said so that is why we want to move it back as far as we can which is to the front of the house and have the patio. Mr. Logan said its closer for us to walk to the garage and our side porch is right across from the patio. Mr. Bitto said with the noise issue and it is that noisy then you should probably get with the Trustees because it's not supposed to be; it's the cooling deck. Mr. Logan said it is the cooling deck and it's a low frequency sound.

Mr. Schigel asked how close it (proposed accessory building/garage) is to the side property line. Mr. Bitto said 37 feet according to the drawing. Mr. Schigel said it just looked really close in the picture. Ms. Czyz said where the rear line is by the cell box from the back of their property to the phone tower is approximately 229 feet. She said it is to the back of their property, not the side or the front. Mr. Bitto asked the Zoning Inspector if there was any conflict with the setback if the building is put where he is proposing to put it. Ms. Czyz stated no there isn't a conflict, but the reason the applicant had to file for a variance is because our zoning resolution states that the only thing beyond the front of the house can be 10 feet. She said if it was attached to the current garage it could go there but an accessory building cannot extend beyond the front of the home. Mr. Bitto asked if the restrictions for the accessory building is 15 feet away from any structure. Ms. Czyz stated yes and he will meet that by the driveway because it is going to be a side entry so he is going to need that curve anyway which is 15 feet. Mr. Schigel asked the applicant if he's been out in the yard if he noticed a difference in the noise by that 24 feet? Mr. Logan said not lately because the fan is not on. Ms. Murphy asked the applicant, so you think by moving it back that far it will buffer the sound? Mr. Logan said yes for the patio so we can sit back there. Ms. Murphy said but are you saying that you are not going to hear it back that far, is that what you are saying? Mr. Logan stated we might put a water feature out there to make more noise or something too. Mr. Kersten asked if he tried with his Association to work to get that thing moved or something. Mr. Logan stated he would love to have it removed, but it's not likely. Mr. Bitto stated not likely. Mr. Kersten asked if the Association has helped him out any with this. Mr. Logan said no. He said he tried to talk to someone who was working on the cell box but he didn't speak English. Ms. Czyz stated that telephone meter is not going to be removed and it is guided and controlled by the PUCO so we have absolutely no control or say. Mr. Bitto stated other than making it quiet. Ms. Czyz stated that is why we were checking the decibels and unfortunately to say Mr. Logan that you can't hear it now – that is a continuous that does not go on in the summer or in the spring and turns off in the fall – Mr. Logan said yes it does –Ms. Czyz said it is continuous because I did my due diligence and I did check with the PUCO and they did assure me that it probably isn't as prevalent now. Mr. Logan said I am an electrician so I know.

Mr. Schigel asked if there has been any thought on if the variance does or doesn't go through of some kind of natural barrier on the back side? Mr. Logan said yes, we've looked at trees and such. Mr. Bitto stated you've planted across the back of the property. Mr. Logan said yes, we put some burning bushes on top of the mound for privacy and some trees, but we need more trees. Mr. Schigel asked, on the front of the property in the picture it appears there are some trees in the front. He asked if the trees are staying or going if he is going that close. Mr. Logan looked at the picture (Logan Exhibit: 3) and said the trees are staying.

**Public Input/Testimony & Evidence:** None

Sec. 1005-1     **Area Variances / Duncan Factors**

- A. **Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.** *All Board members stated yes.*
- B. **Whether the variance is substantial.** *All Board members stated yes.*
- C. **Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** *All Board members stated no.*
- D. **Whether the variance will adversely affect the delivery of governmental services.** *All Board members stated no.*
- E. **Whether the property owner purchased the property with knowledge of the zoning restriction.** *The Board members stated this has not been addressed.*
- F. **Whether the property owner's predicament can be obviated through some method other than a variance.** *Mr. Kersten stated yes, he could put it in the back, but then he is going to get all the noise. The remaining Board members stated yes.*
- G. **Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** *All Board members stated yes.*
- H. **Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** *Mr. Schigel said no. The remaining Board members said yes.*

Mr. Kersten asked if the adjoining property owners were notified of the hearing. Secretary Milanko showed the Board the Tax Map mailing address report for letters sent.

End of Testimony & Evidence

**Motion to Approve Variance Request #2 for 241 Newport Circle**

Chair Bitto made a motion to grant the variance request to build the structure 24 feet in front of the dwelling to align with the existing garage. Mr. Kersten seconds the motion. **Roll Call:** Mr. Lucien-yes; Mr. Schigel-yes; Ms. Murphy-yes; Mr. Kersten-yes; Mr. Bitto-yes; Mr. Bitto-yes. Motion carries to grant the variance 5 yes votes to 0 no votes.

**Discussion on the Motion**

Ms. Czyz asked if the motion was to grant 20 or 24 feet. She said the applicant is asking for 20 feet. The Board reviewed the application request and it was verified the request is for 24 feet. Ms. Czyz stated there was a typo in the applicant's letter of intent; she apologized and stated it should read 24 feet; we have permission from the applicant to correct his letter to 24 feet. Ms. Czyz verified for the record the correct measurement should be 24 feet, not 20 feet.

**Appeals:** Mr. Bitto stated any person who is adversely affected by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas Medina County on the grounds the decision was unreasonable or unlawful. He said they have 30 days from the date the decision letter is signed to appeal.

**Public Comment:** None

**Additional Business: - Agritourism**

Secretary Milanko distributed a copy of the new Ohio Legislation on Agritourism. Ms. Czyz stated it is Senate Bill 75. Secretary Milanko stated the Zoning Commission will be looking at the new legislation as they review the Brunswick Hills Zoning Resolution.

**Announcement of Next Meeting Date:** Wednesday, April 4, 2018 @ 7 p.m.

**Motion to Adjourn:** Mr. Kersten made a motion to adjourn the meeting. Mr. Schigel seconds the motion. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 8:47 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

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John Bitto, Chair

Date