

**Brunswick Hills Township  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
June 5, 2019**

**Call Meeting to Order**

Chair Schigel called the Brunswick Hills Township Board of Zoning Appeals public hearing to order at 7:04 p.m.

- **Board Members in Attendance:** Chris Schigel (Chair), Kimberley Hall (Vice Chair), Cliff Kersten, Jessica Murphy, John Bitto
- **Alternate Board Members in Attendance:** Daryl Lucien, Robert Murphy
- **Others in Attendance:** John Witthuhn, Trustee Liaison, Mary Jean Milanko, Zoning Secretary
- **Others not in Attendance:** Evelyn Cysz, Zoning Inspector

Chair Schigel stated we have a full quorum tonight and the meeting has been properly advertised. The Brunswick Hills Township Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code.

**APPROVAL OF THE MAY 1, 2019 MEETING MINUTES**

**Motion:** Ms. Hall made a motion to approve the minutes as submitted. Mr. Bitto seconds the motion.

**Roll Call:** Ms. Murphy-abstain; Ms. Hall-yes; Mr. Kersten-yes; Mr. Bitto-yes; Mr. Schigel-yes.

**SIGNING OF DECISION LETTERS**

**1. 4970 Neura Parkway swimming pool.** **Motion:** Mr. Schigel made a motion to accept the decision letter as written. Ms. Hall seconds. **Roll Call:** Mr. Kersten-yes; Ms. Murphy-abstain; Mr. Bitto-yes; Ms. Hall-yes; Mr. Schigel-yes.

**2. 5236 Markwood Court, Brunswick Hills.** Variance request of front setback to build a new house.

**Motion:** Mr. Bitto made a motion to accept the letter as written. Ms. Hall seconds. **Roll Call:** Mr. Kersten-yes; Mr. Bitto-yes; Ms. Hall-yes; Ms. Murphy-abstain; Mr. Schigel-yes.

**NEW BUSINESS – PUBLIC HEARING**

**Case #1**

**1. Paula & Ernest LaManna, 4681 Forest Grove Drive, Brunswick Hills were sworn in.** Variance request for a proposed accessory building height to exceed 15 feet per Sec. 303-6 (D). Mr. LaManna said we are asking for an area variance for the height of an accessory building. He said we are asking for an additional 10 feet over the 15 feet maximum requirement right now. Mr. Schigel asked if they are building the accessory building on the same plane as the front of the house. Mr. LaManna said it will be very close and it will not be any closer to the street and it will be adjacent to the attached garage. (*Exhibit 1: LaManna*) Mr. Kersten asked why do you need an accessory building of this height? Mr. LaManna said I want to keep the same look as the house. The house has a 10-12 pitch and I want to maximize storage in the facility. He said I'd like to have a 12 foot interior wall and then with the 28 foot depth and the 10-12 pitch, which will be about 23-24 feet in height, but I want to keep the same style as I have with the home. He said it will have a twin gable on the front and we are in the process now trying to find the exact brick that is on our house. Mr. Bitto said so you are going to try to mimic the front of your house. Mr. LaManna said yes as much as we can. He said right now our house is three-sided brick and I don't know if I will be able to do full brick on the front of the building but it will be at least four feet up and then twin windows and the same vinyl siding to match.

Mr. Schigel asked why he chose that exact location instead of behind the house. Mr. LaManna said a couple of reasons. If I build behind the house, I feel it would impact my neighbors on both sides because they both have backyard patios and fire pits so I think they would see more of the accessory building. He said additionally about five or six years ago we had a very heavy rain storm and the creek that is in the very back of our property actually flooded and got within 50 feet of my house. He said that told me right then if I would have had an accessory building in the back it would have been flooded. He said my property drops approximately 7 feet from my house to the very back of my property so that building would have been underwater by at least 5 feet. Mr. LaManna said plus the accessory building right outside by the garage is more accessible if we have to get another car in there. He said where we plan to put the building is a very heavily wooded area and honestly the view from the street is almost none. He said we put a curved driveway in so there will still be a lot of trees that will cover that building. Mr. Bitto asked if there is a big drop off there. Mr. LaManna said 20 inches.

Mr. Kersten asked if they were putting in a second floor in the building. Mr. LaManna said there will be an upstairs in it, but because of the height of the 10-12 pitch I am going to spend the extra money and get the storage truss. Mr. Schigel asked what the height of the garage door will be. Mr. LaManna said 8 feet, possibly 10 feet, but at least 8 feet because that is the same size on my existing garage. Mr. Kersten stated when he went to the property he couldn't see any of the yellow flags that were mentioned in the application. Mr. LaManna stated they got grown over, but I put yellow flags between the properties so you could see where the building would be at. Mr. Kersten asked how far from the property line the building will be. Mr. LaManna said 5 feet. Mr. LaManna said I've thought about this building for a long time and talked to the neighbors and tried to think of every scenario. Mr. Kersten said he agreed with where he is putting it but you have to cut down trees and asked if they are leaving any trees around it. Mr. LaManna said as many as I can and I might call someone like Big Trees to see if they can come in and move them. He said there are some really nice trees in there and I'd like to keep as many as I can. Mr. Kersten said and you are going to use the existing driveway and not and another concrete pad or anything like that. Mr. LaManna said I will just have to add about 5 feet to the width of my driveway to get to the new garage. He said but it won't be an additional driveway; you either go left to the house or right to the accessory building. Mr. Schigel said so that additional 5 feet will just be to get to the accessory building and it won't be the whole drive? Mr. LaManna said correct.

#### **PUBLIC COMMENT:**

**1. Mike Esber, 4728 Forest Grove Drive, Brunswick Hills was sworn in.** Mr. Esber stated he lives a couple of doors down from Ernie and he doesn't see any impact whatsoever for the accessory building. Everyone has two acre lots and he has a wonderful house and yard. Mr. Esber stated again he doesn't see any impact because it will be pretty well hidden from the neighbor.

**2. John Kipp, 4662 Forest Grove Drive, Brunswick Hills was sworn in.** Mr. Kipp said I live diagonally across the street and the LaManna's have been great neighbors. He said he would never do anything that was against the rules and I am 100 % in favor of what he wants to do with your approval.

#### **REVIEW OF THE DUNCAN FACTORS FOR AREA VARIANCE**

**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.** *All board members stated unknown.*
- F. **Whether the property owner's predicament can be obviated through some method other than a variance.** *Ms. Hall stated yes. Mr. Bitto stated no. Ms. Murphy stated no. Mr. Kersten stated yes. Mr. Schigel 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.** *All board members stated no.*

**Motion to Approve the Variance Request for 4681 Forest Grove Drive**

**Motion:** Ms. Hall made a motion to approve the variance request for 10 feet additional height on an accessory building at 4681 Forest Grove Drive. Mr. Bitto seconds. **Roll Call:** Mr. Kersten-no; Ms. Hall-yes; Mr. Bitto-yes; Ms. Murphy-yes; Mr. Schigel-yes. Motion carries to approve the variance request by a vote of four yes votes to one no vote.

Mr. Schigel said "Any person adversely affected by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas in Medina County on the grounds such decision was unreasonable or unlawful. They have 30 days from the date the decision letter is signed to appeal. Mr. Schigel stated the decision letter will be signed at the Wednesday, July 3, 2019 meeting.

Mr. LaManna asked if it is 30 days from today or 30 days from July 3<sup>rd</sup> to appeal the decision. Chair Schigel stated 30 days from the day the decision letter is signed. Mr. LaManna said so I can't get a permit until after August 3<sup>rd</sup>? Mr. Bitto stated the Zoning Inspector will issue a permit to you after the letter is signed so if you do something before then you are doing it at risk if somebody decides to appeal.

**Case #2**

**2. Cathy Collier and Brent Collier (son), 575 Substation Road, Brunswick Hills were sworn in. Variance request for a proposed accessory building height to exceed 15 feet per Sec. 303-6 (D).** Mrs. Collier stated we would like to build an accessory building that will be behind the existing garage higher than 15 feet and it mostly for storage of work-related vehicles, lawn mowing equipment, snow blower equipment and personal items. She said we are not running a business or anything like that and we want to get the vehicles inside the garage. She noted the picture in the packet (*Exhibit 2: Collier*) that shows the vehicles behind the house and this way things will be in the accessory building and garage and we will have a much neater back yard. Mrs. Collier said the variance is to have the building be approximately 18 feet tall, rather than the 15 feet. Mr. Bitto said so you are 3 feet over? Mrs. Collier said yes, so that is why we are doing the variance for the height. Ms. Hall asked for her to explain why she needs this because normal maintenance equipment is not that tall unless you have a backhoe or a front loader or something. Mrs.

Collier said there are ladder racks on the trucks. Mr. Collier said we have a fishing boat and a John Deere tractor with a cab.

Mr. Kersten asked from the ground up, how high is the John Deere? Mr. Collier said about 6.5 – 7 feet or something like that. Mr. Bitto asked if this is a pole barn. Mr. Collier said yes. Ms. Hall said she doesn't understand why that type of equipment was not listed in the letter because you were pretty specific: *riding and push lawn mowers, personal snow removal equipment, wheelbarrow, etc.* Ms. Hall said there is a big difference on what is listed here and what you just told us is going in there. Mrs. Collier said we did say to store work-related vehicles, which is a truck with a ladder rack and the ladders so we were going to get a 10 foot garage door to easily be able to go through. Mr. Collier said I want to put the stuff that is in the garage in the accessory building just for storage. Mr. Kersten said if you have a 10-foot garage door, why do you need an 18 foot high building because you could still get your truck in the 10 foot door. He said you are saying you need 18 feet because you have the ladders and racks on the truck. Mr. Collier said it will be 18 feet from the ground to the top of the gable. Mr. Bitto asked how high the sidewalls are. Mr. Collier said I don't know for sure so I would say about 9 or 10 feet, but I know it is a 4-12 pitch. Mr. Bitto said useable height inside the building isn't going to be more than 12 feet, so you need the rest of the height to get the pitch.

Mr. Schigel asked if there will be any changes to the concrete pad in the back. Mrs. Collier said no. Mr. Schigel asked if they know how close it comes to the property line on the left side. Mr. Collier said I think it is 10 feet. Mr. Schigel asked if they know how tall the accessory building is at their neighbors. Mr. Collier said from the ground to the ridge, probably similar. He said I think his is 32 x 36 or something like that. Mr. Collier said I think it is about the same because I think his is a 4 pitch or 5 pitch range and about the same height. Mr. Schigel asked how far back the property line is to the back of the new accessory will be? Mr. Collier said from the back fence I would estimate it is probably 50 feet. Mr. Bitto said it looks like it is at least that much.

Ms. Hall questioned whether there were measurements listed. Mr. Bitto pointed out the page with the measurements. Mr. Bitto said he needs the height variance to get the proper pitch of the roof. He is putting 10 foot doors in and most likely the bottom of the trusses are going to be in the 12 foot area.

**PUBLIC COMMENT:** None

#### **REVIEW OF THE DUNCAN FACTORS FOR AN AREA VARIANCE**

- 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.** *Mr. Kersten asked if 3 feet is substantial. Ms. Hall said on that size of a building is what I was thinking. Mr. Bitto said if you take 3 feet off the top, you're taking 3 feet off the side walls so you would have probably a 12 foot side wall or a 9 foot side wall – you can't put a 10 foot door in a 9 foot wall. All board members agreed it is substantial.*
- 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.** *All board members stated unknown.*
- F. **Whether the property owner's predicament can be obviated through some method other than a variance.** *All 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 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.** *All board members stated no.*

**Motion to Approve the Variance Request for 575 Substation Road**

**Motion:** Mr. Bitto made a motion to approve the variance request as submitted for an additional 3 feet in height for a total of 18 feet for 575 Substation Road. Mr. Schigel seconds. **Roll Call:** Ms. Hall-yes; Mr. Bitto-yes; Mr. Kersten-yes; Mr. Schigel-yes. Motion unanimously carries to approve variance request.

Mr. Schigel said "Any person adversely affected by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas in Medina County on the grounds such decision was unreasonable or unlawful. They have 30 days from the date the decision letter is signed to appeal. Mr. Schigel stated the decision letter will be signed at the Wednesday, July 3, 2019 meeting.

*Case #3*

**3. Robert and Gail Larrow, 4660 Boston Road, Strongsville were sworn in.** **Variance request for a proposed accessory building height to exceed 15 feet per Sec. 303-6 (D) for property located at 4640 Boston Road.** Secretary Milanko noted that the proposed accessory building is located at 4640 Boston Road. Mr. Larrow said I want to build an accessory building with a 10-foot door so I can put my stuff in it. He said I will have 12 foot trusses so I can put a loft in it for storage on top. He said I want the 12-8 pitch so it matches the front of our house otherwise she won't let me build it. *(Exhibit: 3 Larrow)* Mrs. Larrow said it is being built at 4640 Boston Road, but if we didn't own that property it would be me like the neighbor looking at it and if didn't match our property I wouldn't be happy. She said he doesn't care what it looks like, but I care very much and that is why this thing has to be a lot fancier than what he wants. Mr. Schigel said that was one of the questions going through this and that is whether it would be behind the house or adjacent to the house. Mr. Larrow said when you pull up to my house, the garage is on the side, so this would be on the left-hand side. He said it is closer to my side of the property and there is 44 feet to the next neighbor on that side. He said it's a 1500 foot lot and I'm 540 feet from the road, so you aren't going to even see it. Ms. Hall said but the neighbor would. Mr. Larrow said he has shared the plans with him and he is fine with it. Mrs. Larrow said the neighbors are really good friends of theirs and they went over everything with them and we always tell each other if we are ever going to build anything.

Mr. Larrow said I want to make the front of it look nice so it will either have stone or something so it will match the house nice. Mr. Schigel asked if they will be using the same drive. Mr. Larrow said yes. Mr. Kersten asked why 27 feet? Mr. Larrow said when I first talked to Evelyn (Evelyn Czyz, Zoning Inspector) I didn't know what the height would be and she said add two feet to it. He said if I keep the 13 foot ceiling,

it's like 26 feet, but I can keep it within 25 feet. Mr. Kersten said I still don't understand. You can get your biggest piece of equipment through a 10-foot garage door, but now you want 15 feet more above that. Mr. Larrow said because I want the roofline to match my house. Mr. Kersten said but your house should be only 25 feet if it was built under the zoning code. Mr. Larrow said I don't have a problem keeping it at 25 feet. Mr. Kersten said we can't do that now because you want 27 feet but what I'm saying is you want it 2 feet higher than your house and you want a 12 feet variance over the zoning code. He said but yet, you want it to store your equipment and your tractor and so forth which will all go through a 10 foot door. Mr. Schigel said we can maximize the height. Ms. Hall also agreed we can limit it. Mr. Bitto said just because we approve it for 27 feet doesn't mean he couldn't build it to 20 feet. He said he can build up to 27 feet.

Mrs. Larrow said when we came up here to ask what we need to do to go over the 15 feet maximum, she (Evelyn) did tell us to do that and I was concerned about that. She said why would you ask for more than you need and our understanding was because if we asked for 25 feet and it was 25 feet and 3 inches they could shut us down as it is being built. So we were told to go higher. Mrs. Larrow said I do know the door is what he said it is because we've had a couple of arguments over this. She said and we do need that tractor because our driveway is long and there is a lot of stuff that thing can do.

Mr. Schigel said so the reason for the 8-12 pitch is more to match the aesthetics of your house, otherwise you could have gone with a different pitch. Mr. Larrow said correct, so it blends into my other roof line. He said I didn't want it to look like some of these other out buildings with a small pitch because it really doesn't fit in. Mrs. Larrow said it was important to her that it looks nice because she will have to look at it every day.

Mr. Kersten expressed his concern about going higher. Ms. Hall agreed that was a valid concern. Mr. Schigel asked Mr. Bitto: with an 8-12 pitch and a 13 foot sidewall, would that be within 26 feet? Mr. Bitto said it would probably be pushing 26 feet or higher. Mr. Lucien said it would be about 5 inches higher; they're trusses and with an 8-12 pitch, you have a 20 foot truss so if you do the math it comes out to 13.3 feet. Mr. Schigel said so he would need the full 27 feet because it will probably be 26.5 feet. Mr. Larrow said I can lower the ceiling. Mr. Bitto said it wouldn't do justice to what you are trying to do, scale-wise. Mr. Kersten said my other concern is that zoning puts laws in and I have a concern when somebody comes in and wants to double our zoning laws. Mr. Kersten said I feel laws are laws and 2 or 3 feet is one thing, but when you come in and want double with your structure I have a concern so that is where I am coming from. Mr. Schigel said so if there were 12 foot walls instead of 13 foot walls that would come within the range of the height of the house, is that correct? Mr. Bitto said you can't make an exception to the variance to what he is asking for. Mr. Larrow said I put in for what I wanted to do, but if she (Mrs. Larrow) didn't tell me it had to match then I would have just put something else in. Mrs. Larrow said we were just trying to cover ourselves in case it was higher. Mrs. Larrow said I know the door is going to be 10 feet because that is what we need for the tractor. Mr. Larrow said that is with the header in there and wanted to express again that you won't even see it from the road. Mrs. Larrow said and we are only going to cut down what trees we need to because don't want to lose all of the trees. That is why we came out here because we like the rural aesthetic look. End of discussion.

**PUBLIC COMMENT:** None.

**Review of the Duncan Factors for an Area Variance:**

- 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 said yes.*
- B. **Whether the variance is substantial.** *All board members said 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 said no.*
- D. **Whether the variance will adversely affect the delivery of governmental services.** *All board members said no.*
- E. **Whether the property owner purchased the property with knowledge of the zoning restriction.** *All board members said unknown.*
- F. **Whether the property owner's predicament can be obviated through some method other than a variance.** *All board members said 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 said 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.** *All board members said no.*

**Motion to Approve the Variance Request for 4640 Boston Road**

**Motion:** Mr. Bitto made a motion to accept the variance request as presented for an additional height total of 12 additional feet for 4640 Boston Road, Strongsville, OH. PP# 001-02A-03-007. Ms. Hall seconds.

**Roll Call:** Mr. Kersten-no; Ms. Murphy-yes; Mr. Bitto-yes; Ms. Hall-yes; Mr. Schigel-yes. Motion carries to approve the variance by a vote of 4 yes to 1 no vote.

Mr. Schigel said "Any person adversely affected by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas in Medina County on the grounds such decision was unreasonable or unlawful. They have 30 days from the date the decision letter is signed to appeal. Mr. Schigel stated the decision letter will be signed at the Wednesday, July 3, 2019 meeting.

**Case #4**

**4. Paul and Maggie Kline, 7355 Greenleaf Avenue, Parma Ohio. Variance request for a 75 foot front setback opposed to required 100 feet per Sec. 402-3 Lot Requirements for proposed construction of a new home located at 2290 Catherine's Overlook, Brunswick Hills, Ohio.**

➤ **Joel and Tina Zarlenga, (prospective buyers for 2290 Catherine's Overlook) 6475 W. Smith Road, Medina, Ohio were sworn in.** Mr. Schigel asked just to clarify that they are the prospective buyers from Paul and Maggie Kline. Mr. Zarlenga said yes. Mr. Zarlenga stated when we were in the process of buying the property we went into it with the intentions of the 75-foot setback. He said it was on the plat and all that and we did find out when the surveying company went out that the zoning changed because it was vacant for two years so it went back to the 100-foot setback. He said we are asking to turn it back to the 75-foot setback for the front of the house. Mrs. Zarlenga said the property drops off so if we get pushed

back it will cost more money to fill and we have to put a deck up now instead of a patio because the drop off is too far. She said then we will have no backyard because it drops off. Ms. Hall stated this is the second case we've heard like this in that area. Mr. Kersten said he was on the property and we have had two other cases on that street with the setback. Mr. Kersten said personally he didn't think we should penalize on a case like this that we've approved before. Ms. Murphy agreed and said there are beautiful homes there and to make them go back 100 feet they would be like a little beacon sitting there. Ms. Murphy said she would personally like to keep it the way it is and they would be too far back. Mr. Schigel asked if the plane of all the other houses is at a 75-foot setback. Mr. Kersten said all of the other homes in there are at 75 feet. Mr. Bitto said when all of those homes went in it was at a 75-foot setback, so anyone that is farther back than that did it by choice I am assuming.

Mr. Schigel asked if they will meet all side yard requirements. Mr. Zarlenga stated yes and said we have plenty of side and plenty of back. Mr. Zarlenga said we are trying not to take out many trees in the back to keep the uniform same setback as the other houses on the street. Mr. Zarlenga said the only thing we are asking for is to turn it back to the same 75-foot setback as when the development went in.

**PUBLIC COMMENT:**

**1. Catherine and Paul Ulan, 2260 Catherine's' Overlook were sworn in.** Mrs. Ulan said we are proud of this development, it is the first open space development in Medina County. She said my cousin John Zilch(sp?) and us started this development and we are very familiar with it. Mrs. Ulan said the ByLaws with our development are 100 feet, that is how our Association has it. She said and everybody along the way, some 20-some houses, have had to make their restrictions according to ByLaws. Mr. Kersten said for 25 years I was the President of an Association, so I know about Associations. He said we have nothing to do with Associations. If we gave them their 75-feet setback, then it would be up to the Association to take them to court. Mr. Kersten said I am just trying to explain that we don't take into account what the Association says. Mrs. Ulan said ok, but for every house there has been a 100-foot setback, so every house on the street is setback 100 feet or more. Mrs. Ulan said it is a beautiful view and maybe the way they have their house designed is the reason why they have to move it further. She said so maybe they have to change their design and that is what a lot of people had to do to put their house on their property. Mrs. Ulan said they had to change the architectural design of their house because of the way the properties are setup. She said there is a creek down there and that is just the way it is; they will be our neighbors, we are next to them. Mrs. Ulan said our house is setback 150 feet, and if they are 75 feet, they will be in front of our house. She said I will have a problem with that and I've been there for 30 years.

Mr. Kersten said I do know that we approved two variances on that street for 75 feet. Mrs. Ulan said yes, for the one that had the landfill. Mr. Kersten said so if the Association comes along and says you can't do it, that is their problem. Mrs. Ulan stated that was a landfill problem and we agreed with that one. Ms. Hall asked if they are directly next-door. Mr. Ulan said we are the next lot. Ms. Hall pulled the application map and said so if this is the lot, where are you? The Ulan's looked at the map to point out their house. *(Exhibit 4: Kline/Zarlenga)* Mr. Ulan said when we originally designed the development we had one street with three cul-de-sacs, and the County Engineer said we couldn't do that so it cost us a lot of money to set it up the way it is. Mr. Ulan said there is also a no clear-cut in there so they can't go back in there and cut down a lot of trees, per the County, not us. Mrs. Ulan said there is a no clear-cutting of trees in there and that is another thing they need to know before they build their house.

**Chair Schigel called Mr. & Mrs. Zarlenga back to the podium.** Mr. Kersten said from the back lot line it's 25 feet setback. If you were stuck at the 100 feet, would you still be able to build and not encroach that 25 foot setback? Mrs. Zarlenga said there would be fill and the gravel and trees we would have to lose to

get that. Mrs. Zarlenga said we are just building a ranch because we are trying to downsize. Ms. Murphy asked how big the house will be. The Zarlenga's said 2400 sq. feet.

**Additional Public Comment:**

**2. Paul Kline (property owner of 2290 Catherine's Overlook), 7355 Greenleaf Avenue, Parma Ohio was sworn in.** Mr. Schigel clarified he is the property owner. Mr. Kline said obviously I am with the buyers on this thing and I was the original buyer in 2005. When Mr. Zilch and his realtor marketed the lot to me and my wife and it was clear there was a 75 foot setback. He said there were no bones about it and some of their marketing materials said that. He said the original plat map has that and it has been recorded. He said they way I saw it is that this 75-foot setback runs with the land. He said obviously I did not have foreknowledge that this zoning restriction had come subsequent before that purchase. He said I'm here to say that the buyer's didn't know that either and obviously I didn't know it, so I am endorsing their 75-foot setback.

**Review of the Duncan Factors for an Area Variance:**

- 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 said yes.*
- B. Whether the variance is substantial.** *Ms. Hall said if you are looking at the overall lot size I would say no. Mr. Bitto said I'm looking at what it was platted at. He said the lots were platted at a 75-foot setback. Ms. Murphy said they need it in order to build a house. All board members said no.*
- 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 said no.*
- D. Whether the variance will adversely affect the delivery of governmental services.** *All board members said no.*
- E. Whether the property owner purchased the property with knowledge of the zoning restriction.** *All board members said no.*
- F. Whether the property owner's predicament can be obviated through some method other than a variance.** *All board members said 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 said 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.** *Ms. Hall said how can you say it has unique or exceptional circumstances when it is just like all the other properties in the vicinity. All board members said no.*

**Motion to Approve the Variance Request for 2290 Catherine's Overlook**

**Motion:** Ms. Hall made a motion to approve the variance request for 2290 Catherine's Overlook for 75-foot setback. PP# 001-02C-21-023. Mr. Bitto seconds. **Roll Call:** Mr. Bitto-yes; Ms. Hall-yes; Mr. Kersten-yes; Ms. Murphy-yes; Mr. Schigel-yes. Motion unanimously carries to approve the variance request.

Mr. Schigel said *"Any person adversely affected by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas in Medina County on the grounds such decision was unreasonable or unlawful. They have 30 days from the date the decision letter is signed to appeal."* Mr. Schigel stated the decision letter will be signed at the Wednesday, July 3, 2019 meeting.

**Additional Business:** None

**Public Comment: Setbacks from Right-of-Way**

A gentleman from the audience asked where the setback starts, is it at the street line or the edge of the street? Ms. Hall said I believe it is from the middle of the road, isn't it? The gentleman said I know when we built our house they said it didn't start for 18 feet, which we thought was into our property because we had to get a 100 foot setback so we had to make sure that we were far enough back because of that 18 feet. He said so their 75, does that start at the edge of the street? Trustee Witthuhn said he thought it was the right-of-way. Mr. Lucien said there is a right-of-way. The gentleman said so if that includes the 18 feet, they could be potentially 90-some feet off the street then. Mr. Bitto said no, it would start at the beginning of the right-of-way. The gentleman asked what is the right-of-way? Mr. Bitto said it would be the utilities basically. The gentleman said so it's not the street, so you can't take a 75-foot measure from the curb and go from there. Mr. Bitto said correct and then you still end up with the way the road is shaped on this one, depending on where they put the house, they could probably make the distance because of the curve in the road. The gentleman said I was just wondering if they realize they are not going from the edge of the street and going back 75 feet and then to find out I've got to be another 10 or 15 feet back and now I'm back almost to the 100 feet. Mr. Lucien said that is the builder's problem. Ms. Hall said but it would be at the property owner's cost if they have to fill it. The gentleman said you buy the property thinking you are going to be here and then you end up back here. End of discussion.

**Announcement of Next Meeting Date:** Wednesday, July 3, 2019 @ 7 p.m.


**Motion to Adjourn the Meeting**

**Motion:** Ms. Hall made a motion to adjourn. Mr. Bitto seconds. **Roll Call:** All in favor.

Meeting officially adjourned at 8:35 p.m.

Respectfully Submitted,  
Mary Jean Milanko, Zoning Secretary

  
Chris Schigel, Chair

  
Date