

**Brunswick Hills Township  
Board of Zoning Appeals  
Public Hearing Minutes  
September 2, 2020**

**Open Public Hearing**

Chair Kersten called the Brunswick Hills Township Board of Zoning Appeals Public Hearing meeting to order at 7:00 p.m. A roll call of the board was executed.

- **Board Members in Attendance:** Cliff Kersten (Chair), Robert Murphy, Ron Wetterman
- **Alternate Board Members in Attendance:** Daryl Lucien
- **Board Members not in Attendance:** Chris Schigel (Vice Chair), Kimberley Hall
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector, Trustee Christina Kusnerak, Zoning Liaison, Matt Payne, Fire Prevention Officer, Mary Jean Milanko, Secretary

The Brunswick Hills Township Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code. Chair Kersten stated a quorum is present and noted a quorum of four board members. He explained the vote: A YES simple majority with a quorum present is in favor of the applicant. A NO simple majority, or a TIE vote with a Board of four (4) will deny the applicant's request.

**APPROVAL OF MINUTES:** Chair Kersten and the board stated they will approve minutes after the cases are heard.

**NEW BUSINESS: Public Hearing**

Chair Kersten swore in Evelyn Czyz, Zoning Inspector.

**CASE #1**

1. **(7:00 p.m.) Adam Ziegler, 3737 Puritan Drive, Brunswick Hills, OH, PP# 001-02D-23-013. Variance request for an accessory building in front side yard per Sec. 303-5 (C). Current Zoning District: RR.**

Chair Kersten called the applicants to the podium.

- **Diane Bija, (New Creation Builders), 818 E. 73<sup>rd</sup> ST, Cleveland, OH 44103 was sworn in.**
- **Adam Ziegler (Property Owner), 3737 Puritan Drive, Brunswick Hills, OH was sworn in.**

Chair Kersten gave the applicants the opportunity to proceed with a board of four or exercise their right to continue the hearing until we have a full board. The applicants chose to move forward.

Ms. Bija said we are asking for a side, front variance on this property. She said to the front where the proposed garage will be is at 1,177 feet from the road. It is a heavily wooded lot, there is a slight curve to the driveway and this proposed structure would be barely visible from the street. She said we have approached this project from the side and attaching it to the house, which due to elevation and the engineered structure of the building, it would not be a good fit for this property. She said we also looked at trying to move it to the back of the property where the elevation has a serious drop and 5-8 huge trees that are very valuable to the property and the community would have to come down. Ms. Bija stated in my professional opinion, this is the best proposal for the property.

**Questions by the Board**

Mr. Kersten said I noticed on your application that you are addressing this as an accessory building. Ms. Bija said correct. Mr. Kersten said under the ordinances, an accessory building must be to the rear of the property. Ms. Bija stated I am aware of that and that is why we are here.

Mr. Murphy asked how many square feet the building is. Ms. Bija said it is 22 x 27 feet, which is 594 square feet. Ms. Bija said she would like to make mention that the family has three teenage growing children; there's a lot of sports; there's a lot of bikes, yard equipment, patio equipment for the two-car garage they have and still be able to park their vehicles – this is very necessary.

Mr. Wetterman said I am looking at your plans and the drawings and to me it looks very much like a garage, and because of that, I see a lot of garages that are in the front of the house so I don't have a problem with it. Mr. Kersten stated he agreed and said it looks like a garage instead of an accessory building. Ms. Bija said we are also trying to maintain the aesthetics of the property so we were trying to match the house the best we could and I think that was one of the determining factors to design it the way we did. Mr. Murphy said he visited the property and saw the setup.

Ms. Czyz (Zoning Inspector) said from the side of the garage that is there now to the side lot line is 75 feet, so there is plenty of room there to build one next to garage even if they wanted to extend the current garage. Ms. Czyz said so there is an alternative. Ms. Bija said there is also a serious elevation there. She said that was one option we were considering but then the patio would have to be moved somewhere else. Ms. Bija said aesthetically it would like a garage stuck to another garage, but we are willing to entertain options to be able to accommodate their family. Mr. Ziegler said the garage we have now has a room above it and at the very edge to where our house ends there is a window up there. He said we originally wanted to do that but then we would either have to make a flat roof garage or we would have to block that window off, but it just didn't make sense. He said he had multiple estimates and looked at putting a patio on flat roof but if we did that, we would block the window and the new garage we would have to put an apartment up there to match where it's at now. Mr. Ziegler said all we really want is the extra garage space, we didn't want to be adding more square footage.

Mr. Wetterman said it does have a garage door and, in the future, it could be used as a garage without a problem. Mr. Murphy asked if one of those (doors) is for the driveway and one for the back yard? Mr. Ziegler said yes, the single car was going to the back yard and the other door would be going towards my house. Mr. Ziegler said the other reason we did that is because you have rules on the square footage and I wanted it to be long enough to pull a trailer in there.

**PUBLIC COMMENT:** None

**Review of the Duncan Factors**

**Sec. 1005-1 Area Variances**

**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.** Mr. Murphy=yes; Mr. Kersten=yes; Mr. Wetterman=no; Mr. Lucien=no.

**Discussion on the whether the variance is substantial:** Ms. Czyz stated, remember, they only have to be five (5) feet from the side and rear lot lines, and they are asking for the side of the garage to the property

lot line they are asking for 26 feet and they only need five (5) so that is a substantial variance. Mr. Lucien said not in my opinion. Ms. Czyz said they are asking for the side of the garage to the property lot line its 75 feet that they have to build something with. So if they attach it or they can do detached because they are already planning a detached so it is taking away the five feet and the 15 feet that is 20 and it still leaves them 55 feet. Mr. Lucien said all of that has been considered; understand. Ms. Czyz said so do know that answer can be obliterated. Mr. Murphy said it is a matter of opinion.

**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 members said no.

**E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Unknown. Mr. Kersten stated we did not ask the applicant.

**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 VARIANCE REQUEST FOR 3737 PURITAN DRIVE:**

**Motion:** Mr. Murphy made a motion to accept the application variance request for 3737 Puritan Drive for an accessory building in the front, side yard. Mr. Wetterman seconds the motion. **Roll Call:** Mr. Lucien-yes; Mr. Murphy-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

Chair Kersten told the applicants they cannot start construction for 30 days. He said anyone who objects our decision has the right to appeal the decision to the Medina Common Pleas Court. He said you will receive a decision letter from the board in 30 days.

**MEETING RECESS** – At 7:23 p.m. the board took a short recess before the next case at 7:30 p.m.

**Meeting called back to order:** Chair Kersten called the BZA back into session at 7:30 p.m. A Roll Call of the board was executed:

- **Board Members in Attendance:** Cliff Kersten (Chair), Robert Murphy, Ron Wetterman
- **Alternate Board Members in Attendance:** Daryl Lucien
- **Board Members not in Attendance:** Chris Schigel (Vice Chair), Kimberley Hall
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector, Trustee Christina Kusnerak, Zoning Liaison, Matt Payne, Fire Prevention Officer, Mary Jean Milanko, Secretary

**CASE # 2**

**2. (7:30 p.m.) William Quinn, 1015 Slate Drive, Brunswick Hills, OH, PP# 001-02A-22-117. Variance request for an in-ground pool, per Sec. 303-6 (G) Swimming Pools. Current Zoning District R-1.**

Chair Kersten explained the voting process with a quorum of four (4) board members as in case 1. The applicant was given the opportunity to proceed or continue. Mr. Quinn stated I would like to move forward tonight. Chair Kersten swore in the Ms. Evelyn Cxyz, Zoning Inspector.

- **William Quinn, 1015 Slate Drive was sworn in.** Mr. Quinn stated I am seeking a variance to put an in-ground pool at my residence. He said I am seeking a two-foot variance from the back of my property line, that would be eight (8) feet from the back of my property line from the required 10 feet. He said it is the least obtrusive variance possible for the size pool I am requesting.

Mr. Kersten said you said you are requesting a variance for a 16 x 32 pool? Mr. Kersten said instead of requesting a variance, why couldn't you go with a 14-foot pool? Mr. Quinn said I applied for a smaller pool and I did get approval for a smaller pool. He said after consideration with my family, a safety concern arose through the size of our family and our kids growing and we considered that it may be too small for our family as they get older. He said I'm nervous with the size of the smaller pool that it may be too tight for all of our family members and I'm nervous the smaller pool would be a safety hazard. He said we thought the extra space would provide a better size pool for our family.

Mr. Murphy asked how that is a safety hazard? Mr. Quinn said kids jumping in on top of each other and more crowding with a smaller pool. He said where the 16 x 32 would provide more room. Mr. Murphy said two feet more would make it safer? Mr. Quinn said it would provide us four feet more length and two feet more width. Mr. Kersten said you could still go with the length and have it two feet narrower. Mr. Quinn said not from the company that I am using. Mr. Kersten said it can be done and said there are pool companies that will make any size that you want, so it is a consideration. Mr. Quinn said possibly but with the price range I'm in, I couldn't afford it. Mr. Kersten asked Ms. Cxyz if she had a comment. Ms. Cxyz said that a permit had been issued on July 2, 2020 for an in-ground pool measuring 28 x 14 and it was accepted at that time with 10 feet from the rear lot line to the water's edge of the rear of the pool. She said and that evidently changed within a few weeks because this request for a zoning variance was requested on July 14, 2020. Mr. Quinn said yes after consideration we opted to go with something a little bit bigger for more space in the pool for our family.

Mr. Lucien asked if there is something within this 15-foot distance between the building and the pool edge that prevents it from being occupied by the pool? Mr. Quinn said I don't understand the question. Mr. Lucien said you have a 15-foot distance from the back edge of this building and the leading edge of the pool; is there something in that 15 feet? Mr. Quinn said there is a paver patio there. Mr. Lucien said is it 15 feet all the way out? Mr. Quinn said 15 feet away from the house.

Mr. Wetterman asked what type of fencing do you have planned for around the pool? Mr. Quinn said a privacy fence. He said there will be a privacy fence around my yard and then an auto-safety cover to go in over the pool. Mr. Wetterman asked how far away is the fence, is it on the property line? Mr. Quinn said correct, it is right on the property line. Ms. Cxyz said they can do a fence just around the pool, or they can have a safety cover providing evidence that it has an automatic lock, that a person can walk on it, etc. Mr. Quinn stated we are doing both. Ms. Cxyz stated if this is approved, you still have to provide me with that information and a detailed cost and you will have to get a fence permit as well.

Mr. Murphy said on this application you have your reasons for a variance is to allow for more swimmable area for our family, but now it's a safety factor. Mr. Quinn said all-inclusive in that. Mr. Kersten said when you purchased your property, were you aware of these zoning restrictions? Mr. Quinn said no. Mr. Lucien said with regard to the 16 x 32 in the neighborhood, can you point out the proposed size and style that coordinates with what else is in the neighborhood? Mr. Quinn said there are several other pools in the neighborhood. Mr. Lucien said but you're not aware of another 16 x 32-foot pool? Mr. Quinn said yes, there is directly across from me on the other end of our development there is 16 x 32-foot pool. He said there is another pool about three houses down and they have the same size pool. Mr. Wetterman asked if they have the same size lot? Mr. Quinn said I can't say that for certain, all the lots are similar in our development and the pools there all back up to the common area where I live and where no structure can ever be built behind me. Mr. Wetterman asked if there is adequate room between you and your neighbors for heavy machinery to get in to dig a pool? Mr. Quinn said yes. Mr. Wetterman said the reason I was asking where the privacy fence was is because I was concerned if it had to be three to five feet from the property line you would be reducing that space between the fence and the pool. He said kids are going to be kids and they will be running around and you don't want anyone bouncing around in a three-foot aisleway. Mr. Quinn said no there would be adequate room back there.

**PUBLIC COMMENT:**

**1. James Checovich, 1033 Slate Drive, Brunswick Hills was sworn in.** Mr. Checovich said when you asked if there were other pools in the neighborhood 16 x 32, yes there are. He said there is another one across the street on the other side of Sun Meadow that is not visible by our property, but it is back there and I think there is another one down the street a little further that are all that size. Mr. Checovich stated with regard to the 14-foot wide pool vs. the 16-foot wide pool – when you have teenagers, like I do, that is that goal of people trying to jump across the pool from one side to another and that is where the safety thing does happen. He said 14-feet looks like you could jump across but 16-feet does not look like you can jump across so that two feet makes a huge difference. He said it also makes a big difference in the amount of space in the pool.

**Review of the Duncan Factors**  
**Sec. 1005-1 Area Variances**

**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 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. **Discussion:** Ms. Cxyz noted that the property owner did know that the restrictions were in place when he obtained the first permit. The board members said so he did know when he got the permit, but he didn't know when he purchased the property. Mr. Kersten said we are talking about when he purchased the property so I would say no.

**F. Whether the property owner’s predicament can be obviated through some method other than a variance.** Mr. Kersten – yes; Mr. Wetterman-yes; Mr. Lucien-no; Mr. Murphy-yes.

**G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** Mr. Murphy-yes; Mr. Lucien-yes; **Discussion:** Mr. Wetterman asked if he could abstain from this one. Ms. Czyz said that is a no vote. Mr. Wetterman voted to abstain; Mr. Kersten-abstain.

**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 VARIANCE REQUEST FOR 1015 SLATE DRIVE**

**Motion:** Mr. Murphy made a motion that we accept the 2-foot variance for the purpose of an in-ground pool to go 16-feet at 1015 Slate Drive. Mr. Lucien seconds the motion. **Roll Call:** Mr. Murphy-yes; Mr. Wetterman-yes; Mr. Lucien-yes; Mr. Kersten-no. Secretary Milanko stated we have a majority of three yes votes to one no vote.

Chair Kersten said your variance is granted and you will hopefully, depending on the Covid virus situation, receive a signed decision letter in October. Chair Kersten stated if there is anyone against your variance has a right to file an appeal within 30 days in Medina Common Pleas Court. Mr. Kersten said do not start any construction until you get your decision letter.

**MEETING RECESS** – At 7:51 p.m. the board took a short recess before the 8:00 p.m. case.

**Meeting called back to order:** Chair Kersten called the BZA back into session at 8:00 p.m. A Roll Call of the board was executed:

- **Board Members in Attendance:** Cliff Kersten (Chair), Robert Murphy, Ron Wetterman
- **Alternate Board Members in Attendance:** Daryl Lucien
- **Board Members not in Attendance:** Chris Schigel (Vice Chair), Kimberley Hall
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector, Trustee Christina Kusnerak, Zoning Liaison, Matt Payne, Fire Prevention Officer, Mary Jean Milanko, Secretary

The Brunswick Hills Township Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code. Chair Kersten stated a quorum is present and noted a quorum of four board members. He explained the vote: A YES simple majority with a quorum present is in favor of the applicant. A NO simple majority, or a TIE vote with a Board of four (4) will deny the applicant’s request.

**CASE #3**

Mr. Kersten swore in Ms. Evelyn Czyz, Zoning Inspector.

**3. (8:00 p.m.) James Checovich, 1033 Slate Drive, Brunswick Hills, Ohio, PP# 001-02A-22-120.**  
**Variance request for an in-ground pool per Sec. 303-6 (G) Swimming Pools. Current Zoning District: R-1**

**James Checovich, 1033 Slate Drive, Brunswick Hills, Ohio was sworn in.** Mr. Checovich stated I am here for a variance request to install an in-ground pool to my property. I’m requesting a 2.5-foot variance to the rear of my property to make the water’s edge of my pool 7.75 feet from the rear of my property instead of the required 10 feet. He said the variance is to install at 16-foot-wide swimming pool with the

water line starting 15 feet from the house and ending 7.75 feet from the property line for personal family use and the other reason that I would like to install a 16 feet wide for safety reasons and pool availability. He said I wanted to go 16 feet wide x 38 feet long being that my property is pie-shaped I can get more width than I can depth on my property.

**Questions by the Board**

Mr. Lucien said this is a pretty hair-splitting measurement and said  $\frac{3}{4}$  of an inch? The board said no, 7.75 feet. Mr. Checovich said I need 2.25 feet from the rear of my property. Mr. Wetterman asked from this side of the property how far is it to the edge of the pool. Mr. Checovich said that is to be determined but it will be at least 15 feet from the side of the property. He said I am waiting to hear on the depth to know exactly how wide my pool is going to be and then from that 14 feet, 16 feet, the max pool you can buy is a kit that is 28 feet long. He said and if you go 16, it opens you up to 32, 36 and 38 all the way up to 40 that you can actually buy in the kit. He said it will center into my house and it will be more than 15 feet. Mr. Wetterman said the reason I was wondering is that there is no way to turn it around? Mr. Checovich said no, I'm an engineer and I tried to play with all of the options on my computer, and even with a round pool I would always encroach on the line so this was the best way I could do it. Mr. Wetterman said the cost factor not to be able to get a 14-foot wide? Mr. Checovich said a 14-foot-wide, if I wanted to go longer to accommodate the size for the people that would be swimming in it, the cost factor is a big factor as to why I am asking for the 16-foot-wide because it would bring you up to a lot more. Mr. Checovich said there was a question as to whether I could go 13 foot to my house and I can, but I also don't have anybody behind me so my asking for the variance wouldn't stop anybody from being able to build on their property. Ms. Czyz stated it is open space back there so you can't build on it anyway. Mr. Checovich said right.

Mr. Kersten said and the reason you are going 16 feet is a safety factor? Mr. Checovich said that is one of the reasons, yes, it is more space for my kids to swim and the safety factor because I don't want the kids to be crowded and jumping from one side to the other or trying to jump from one side to the other. Mr. Lucien asked if these are three-foot or five-foot gradings? There isn't a legend for the slope. Mr. Checovich said probably from my house to my property line it probably only drops about 1.5 feet and then it drops off even more. Mr. Lucien said there are a lot of lines on the site map. Mr. Checovich said I think the owner before me brought a lot of dirt in and built it up. Mr. Wetterman asked if he was going to need an accessory building for a pump? Mr. Checovich said no I will not, I am going to put it off to the side of my house tucked in between the morning room and the house where there is already a concrete pad in place. He said I will have to take out a lot of my existing patio to put the pool in and then grade it. He said there will be a fence, it will not have an auto-cover, but there will be a gated locked fence. He said the entrance to my house will not bring you into the pool area, it will come off the morning room so I don't have to worry about my kids walking out of my house and being right in the pool area. He said there will be a locked gate so even people coming out of my house can't get into my pool area without getting through my gate; that is a big safety factor. Ms. Czyz stated a locked gate is required. Mr. Murphy said don't you have to have a fence whether you have that auto-cover or not? Ms. Czyz said no, some of them you could put a car on it. Mr. Murphy said and you don't need a fence? Ms. Czyz said no, it says you can have a fence or you can have one of those safety covers. Mr. Murphy asked if that listed in our zoning regulations? Ms. Czyz stated I believe so. Mr. Wetterman held up the map and said to be clear, this is you and is this the Quinn house? Mr. Checovich said no, Quinn is three doors down.

**PUBLIC COMMENT:** None

**Review of the Duncan Factors**  
**Sec. 1005-1 Area Variances**

- 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 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.** The board 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.** Mr. Kersten-abstain; Mr. Murphy-no; Mr. Wetterman-abstain; Mr. Lucien-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 1033 SLATE DRIVE**

**Motion:** Mr. Murphy made a motion to approve the variance request of 2.25 feet from the rear of the property to his pool from the required 10 feet for 1033 Slate Drive, Brunswick Hills, Ohio. Mr. Wetterman seconds the motion. **Roll Call:** Mr. Wetterman-yes; Mr. Murphy-yes; Mr. Lucien-yes; Mr. Kersten-no.

Mr. Kersten stated your variance is granted and you will receive a decision at the end of 30 days. Anyone who does not like our decision tonight may go to the Medina Common Pleas Court within 30 days to file against the decision. Mr. Kersten stated do not start any construction until you receive the decision letter.

Mr. Checovich asked if there is a length of time that this is good for or does it stay with the property? Mr. Checovich stated I don’t know if it is going to be built this year or it may be in two years because of the delays. Ms. Czyz said a variance goes with the property; however, your permit is only good for six months so if your contractor says to you, we can’t start till next June, then wait until May and allow 15 days turnaround from my office and right now the Medina County Building Department for plumbing and electrical is two to four weeks out. She said you don’t want to get a permit now and it becomes void because you will have to pay the fee all over again.



**ADDITIONAL BUSINESS:**

**1. APPROVAL OF MINUTES**

• **Approval of the June 3, 2020 Special Meeting Minutes**

**Motion:** Mr. Wetterman made a motion to accept the minutes as written. Mr. Murphy seconds the motion. **Roll Call:** Mr. Lucien-yes; Mr. Wetterman-yes; Mr. Murphy-yes; Mr. Kersten-yes.

• **Approval of the June 3, 2020 Public Hearing Minutes**

**Motion:** Mr. Murphy made a motion to accept the minutes. Mr. Wetterman seconds the motion. **Roll Call:** Mr. Murphy-yes; Mr. Murphy-yes; Mr. Wetterman-yes; Mr. Lucien-yes; Mr. Kersten-yes.

**2. RESCHEDULE CASES FOR CANCELLED MEETINGS ON AUGUST 5, 2020 DUE TO COVID-19**

Chair Kersten stated we have to reschedule the cases for the cancelled August 5<sup>th</sup> meetings due to Covid. He stated we were looking at September 16<sup>th</sup> and September 29<sup>th</sup>. Mr. Lucien stated he cannot attend September 16<sup>th</sup>. Chair Kersten stated we have to reschedule these cases at a public meeting and the following motions were made.

**A. Kevin & Tonya Aines, 2214 Substation Road, Conditional Zoning Request to hold special events. September 16, 2020, 7 p.m., Location: Diamond Event Center**

**Motion:** Mr. Wetterman made a motion to reschedule the property at 2214 Substation Road to be scheduled for Wednesday, September 16, 2020 at 7 p.m. at the Diamond Event Center. Mr. Lucien seconds the motion. **Roll Call:** Mr. Murphy-yes; Mr. Wetterman-yes; Mr. Lucien-yes; Mr. Kersten-yes.

**B. Terry Properties & Palmieri Homes – two Variance Requests (094 & 095) September 29, 2020 at 7 p.m. at the Diamond Event Center**

**Motion:** Mr. Kersten made a motion to hear the Terry Properties cases 094 and 095 on September 29, 2020 at 7 p.m. at the Diamond Event Center. Mr. Murphy seconds the motion. **Roll Call:** Mr. Wetterman-yes; Mr. Murphy-yes; Mr. Lucien yes; Mr. Kersten-yes.

Secretary Milanko stated we will make sure the applicants are notified of the dates, times and location of the hearings; they will be advertised and notices will be sent to property owners who were notified on previous hearing dates. Chair Kersten stated we have scheduled these cases and will plan to hold them unless the Trustees put a stop to them due to Covid. Ms. Czyn said, or if an applicant withdraws.

**3. Business for October.** Secretary Milanko announced that neither the BZA or the Zoning Commission received new application requests for October.

**4. Redwood Apartments.** Mr. Wetterman asked if the Redwood Apartments have submitted anything. Secretary Milanko stated their Concept Plan was presented to the Medina County Planning Commission on August 19<sup>th</sup>. She said she will inform the boards if and when they submit anything.

**5. Training Sessions.** Chair Kersten stated it was brought to his attention that the zoning boards would like to have training sessions as we have several new members. Mr. Kersten stated unfortunately there have not been any training sessions scheduled that the Trustees can send us to. He asked the board to come up with a list of things they would like to know we will pass it on to the Trustees. Mr. Murphy asked how can we make a list of things we don't know? Trustee Kusnerak said make a list of things you have questions about or would like to have more information about. Mr. Murphy stated an example is the Duncan Factors that we have to review as part of the decision and then you go through them and

you're going to vote the way you want anyway. Trustee Kusnerak and Ms. Czyz stated that is a great example; to include training on the Duncan Factors.

Trustee Kusnerak stated that she has talked to Brian Richter (Prosecutor's Office) regarding training and he is willing to do it. The issue is with the Covid situation, he cannot do training in person so it would have to be virtual, however that happens. Trustee Kusnerak stated she also reached out to another resource or training and she has not heard anything back. Trustee Kusnerak stated it was also suggested that we try to coordinate training with other townships in the county, and I personally do not think that is a good idea. She stated those of us that have been to those county training sessions you are there for two hours listening to problems of the other entities instead of getting through the training or being able to ask a question. The other board members agreed.

**6. Decision Letter.** Secretary Milanko stated The Prosecutor said the decision letter for Michael Beard, Sleepy Hollow Road from the June meeting, could be signed by the Chair outside of a meeting because July and August meetings were cancelled. The letter was signed and sent to the applicant certified mail.

Trustee Kusnerak said if you were able to sign the decision letter without having a board meeting and you have no business coming up in October for the board to meet, why can't you sign those? Mr. Kersten said we may have to do that but wanted to be sure that each board member was aware of it and previewed the decision letter for edits. Trustee Kusnerak stated you have met as a board and made a decision so you are just delivering the decision. Mr. Lucien said it's not going to stand. Secretary Milanko stated if someone wants to appeal the decision, they have 30 days to do that on their own anyway. Secretary Milanko said there was an opinion from the Prosecutor that the decision letter could be signed before the 30 days. Chair Kersten pulled the email from Brian Richter which says:

*The 30 days would start after the minutes are approved, which is probably the same time as the letter. We use the date because the decision would be final at that time, not that unusual that the BZA can change its decision up until the minutes are signed. Mr. Kersten said so he is saying if we approve something like the swimming pools tonight, we can change our decision? Ms. Czyz and Milanko said that is what is sounds like. The email also says I really don't look at it as 60 days for an appeal since the decision is not final until the minutes are signed. The BZA also does not have to wait 30 days to approve minutes and send a letter out. (Brian Richter, Medina County Prosecutor's Office)*

Trustee Kusnerak said, but they have 30 days to appeal a decision, so what kind of sense does that make? She said so let's say Mary Jean can get the minutes finished by tomorrow, the board could have a special meeting on Friday and sign the minutes. Mr. Kersten said then that would be when the 30 days would start. Trustee Kusnerak said but you have to give the public 30 days to file an appeal with the court. Mr. Wetterman said it should be done in a public meeting, so we might as well have our next meeting. Mr. Kersten said the decision is final when the minutes are approved and if we don't have our October meeting and approve the minutes and we do it in November, that's when the 30 days would start. Ms. Czyz said you can approve your minutes if they are ready at the September 16<sup>th</sup> or September 29<sup>th</sup> meeting. Mr. Lucien said if someone wanted to contest the process and you extended it an inordinate amount of time which is a subjective number, then someone could contend negligence. He said you can't just take forever and a day to make a legal decision. Mr. Kersten agreed and said let's forget about September 16<sup>th</sup> and 29<sup>th</sup> for the moment and let's say the secretary calls me and says the minutes are ready, can I drop them off for you to sign. That's when the 30 days would start. Secretary Milanko stated you can't sign the minutes unless you are in a public meeting. Other board members agreed. Mr. Kersten asked again about

the statement where he says the BZA can change its decision before the minutes are signed. What decision, the decision to the applicant? Everyone said yes, your approval decision. Trustee Kusnerak said if you are thinking about changing a decision, then you have to call a meeting. Mr. Lucien said in the email there is key information missing and that is “what starts the clock”. How many days to you have from when a specific event took place to when you have to sign the minutes? Ms. Czyz stated this is a perfect example of what could be covered in a training session with Mr. Richter, then everyone will hear the same answer. Mr. Kersten asked if there is a certain time that the Trustees minutes have to be approved? Trustee said it must be within a reasonable amount of time. Technically they should be approved at the next meeting of the board, but it doesn’t say that it has to be. She said we do our best to make that happen, but sometimes it doesn’t happen.

**ANNOUNCEMENT OF NEXT MEETING DATES:**

- September 16, 2020 @ 7 p.m. Diamond Event Center – 2214 Substation Road Conditional Zoning
- September 29, 2020 @ 7 p.m. Diamond Event Center – Terry Properties Variance Requests
- October 7, 2020 @ 7 p.m. Town Hall – Regular Meeting

**MOTION TO ADJOURN**

**Motion:** Mr. Lucien made a motion to adjourn. Mr. Wetterman seconds. **Roll Call:** All in favor. Meeting officially adjourned at 8:48 p.m.

Respectfully Submitted,  
Mary Jean Milanko, Zoning Secretary

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Cliff Kersten, Chair

Date