

**Brunswick Hills Township Board of Zoning Appeals
Public Hearing Meeting Minutes
Township Hall & Zoom
April 7, 2021**

Call Meeting to Order

Chair Kersten called the Brunswick Hills Township Board of Zoning Appeals Public Hearing Meeting for April 7, 2021 to order at 7:00 p.m. A roll call of the board was executed.

- **Board Members in Attendance:** Cliff Kersten (Chair), Ron Wetterman, Ann Barron
- **Alternate Board Members in Attendance:** Daryl Lucien (Virtual), Todd Spiker
- **Board Members Not in Attendance:** Chris Schigel (Vice Chair Excused Absence)
- **Others in Attendance:** Trustee Christina Kusnerak, Fire Chief Anthony Strazzo, Mary Jean Milanko, Secretary

Alternates, Todd Spiker and Daryl Lucien were seated to represent a full board. Chair Kersten stated a quorum is present. The Brunswick Hills Township Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code. Chair Kersten addressed the audience and said if you have anything you would like to say, you can say, but it will be directed to the board. There will be no conversations amongst yourselves or walking around.

APPROVE MINUTES

1. Approval of the February 16, 2021 Public Hearing Meeting Minutes

No additions or corrections. **Motion:** Mr. Wetterman made a motion to accept the minutes as written. Mr. Lucien seconds. **Roll Call:** Mr. Spiker-yes; Mr. Lucien-yes; Ms. Barron-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

NEW BUSINESS: Public Hearing

Mr. Kersten swore in Fire Chief Anthony Strazzo and noted the Zoning Inspector is not in attendance.

Case 1: Robert & Jacqueline Betschman, 4920 Emerald Lane, Brunswick Hills, OH, Variance Request for seven feet per 403-4(B) for garage extension. PP# 001-02A-11-071, current Zoning R-1.

TESTIMONY & EVIDENCE

1. Robert Scott & Jacqueline Lynn Betschman, 4920 Emerald Lane, Brunswick Hills, Ohio were sworn in.

Mr. Betschman stated I go by Scott, but my given name is Robert Scott. Mr. Betschman said we presently have a 20x20 garage and we would like to extend it another 20 feet to the back of the property. He said the present zoning laws allow us to go about 15 feet and we would like to be able to add an additional whole garage length behind the house. It will replace a deck that is sitting there right now and it will help us get our vehicles out of the cold in the winter time. Mr. Betschman said we will have no commercial use of it, it's all private. I provided a couple of pictures to show the aerial view of the house and you can see where the addition will cover the deck to be removed. There is a sun porch that extends nearly that same distance, but because the lot line is at an angle, that is within the 25 feet, but we are on a corner lot and we are pushed back into a corner and not quite enough. He said we plan on adding only 20 feet, I asked for seven feet just so we don't have any issue if we are six inches off and have a problem.

Questions by the Board

Mr. Kersten asked if there is any reason why you don't shorten that addition to fall within the zoning laws? Mr. Betschman said we could but you couldn't get a full car in the back of the garage then. He said it would prevent us from putting a car in the back. Mr. Lucien asked how many vehicles do you have? Mr. Betschman said we have two cars and a pickup truck and one garage is covered with a mower, snowblower, a wheelbarrow and trash cans so we lost one spot and we'd like to get our other vehicles in during the winter time. Mr. Spiker asked if the deck is 20 feet from the property line right now. Mr. Betschman said yes. Mr. Spiker said all you are doing is replacing that? Mr. Betschman said yes, correct. He said another option is we could have had a building back there, but we really don't want a building that is not going to match the house. We'd like to keep it the same aesthetics of the house.

Mr. Wetterman asked if there was any chance of angling that back wall so you stay within the allowable limits? Mr. Betschman said yes it can be done, but aesthetically it would be very odd. Mr. Wetterman asked how long he's owned the home. Mr. Betschman said 23 years. Mr. Wetterman said so you are the original owner? Mrs. Betschman said we are the second owners. Mr. Betschman said we bought it in 1998. Mr. Wetterman said so the house was sitting on the lot, you viewed the lot and you knew what you were getting into. Mr. Betschman said yes. Mr. Kersten asked if they were aware of the zoning laws at the time? Mr. Betschman said we were not. Mr. Wetterman said if you were not granted this variance, would you still extend the garage 15 feet? Mr. Betschman said we're not sure at this time. Mr. Kersten said if we denied your variance, would the property be able to be used and would it cause a hardship on you? Mr. Betschman said we haven't been able to decide what we would do if it was denied. He said we could tolerate it, we could add a 15-foot addition and put an out building behind it, we could move. We have not made that decision at this point. Mr. Kersten said but there are other things you could do with the property. Mr. Betschman said there are other options, that's right. Mr. Lucien asked has this been discussed with your neighbors? Mr. Betschman said I just talked to my neighbor on the side who just build a six-foot wall to block the view of all of our property in the back, but I have not discussed it with any other neighbor. Mr. Kersten noted to Mr. Lucien that we do have one neighbor on virtually.

Ms. Barron asked what will you do about your decking? You're not going to build anything further out from the garage area, you're just going to settle with the just the small deck where you had that very large deck? Mrs. Betschman said we've been discussing that and we are somewhat undecided about whether we will just take that deck out and just put a cement patio in place of it or redo that particular deck the way it is and just refinish it. Mr. Betschman said I don't know what the rules are right now on what we can do, we really haven't looked into it. Ms. Barron said it looks like there is a fence and a pool back there as I look at the neighbors. Mrs. Betschman said our next-door neighbor has a swimming pool in their back yard. Ms. Barron said yes, and it is already close. Mrs. Betschman said he is the one that has the six-foot fence all the way around his backyard where you can't see anything. Mr. Betschman said he would tell you its fine. Ms. Barron said well, it's other things too, it's not just visual when you are making any kind of improvements to something that is close, so I was just checking to see if you will have any other things going out further into that area.

Mr. Wetterman said I was looking at your drawing of the home itself with the setbacks and front setback and asked when you measured your front setback, did you measure that from the sidewalk, from the curb, from the center of the street? How did you measure that? Mr. Betschman said Evelyn (Evelyn Czyz, Zoning Inspector) gave those to me. He said the only measurements that I did were around the size of the deck and the distance to the neighbor's fence and the width. He said the others there when given the drawing. Mr. Wetterman said the reason I ask is because the setback allowance is 60 feet. If this is 40 feet, it must be from the sidewalk then; I hate to make assumptions. Mr. Betschman said I don't know as

I said I got it from Evelyn, but I believe that is true that it is from the sidewalk and not the street. Mr. Kersten confirmed the applicant received the dimensions from the Zoning Office.

PUBLIC COMMENT TESTIMONY & EVIDENCE

1. Melanie Rapp-Weiss (virtually), 455 Victoria Lake Circle, Brunswick Hills, Ohio was sworn in. Mrs. Weiss said thank you for inviting us to this meeting; my husband and I received the letter. She said actually we were very surprised as this was the first that I heard of any addition on our neighbor's property. She said we live on Victoria Lake Circle, so we are the ones with the fence that is going to be influenced by this garage addition with the variance request. Mrs. Weiss said she had some questions she would like to ask and asked the board if that would be appropriate right now? Chair Kersten said yes. Mrs. Weiss said I'm trying hard to understand because it is really hard to visualize this addition because we don't have a whole lot of room in our backyards anyway because of how we are situated on a corner. Mrs. Weiss said so I'm trying to figure out how close to our fence and property is this addition is going to be. She said I know there is the seven foot, but it just seems awful close. Mr. Kersten said we will have the applicant answer that. Mr. Betschman said approximately 20 feet; it will be within a foot of the end of our deck. Mrs. Weiss asked if he knew how tall or the height of the garage addition will be? Mr. Betschman said it will be the same as the existing garage. The garage will just extend and I'll have the same siding and the same roof, so it will look like the rest of the house. Mrs. Weiss said ok so will it match the current height and roof line then, is that what you are saying? Mr. Betschman said correct. Mrs. Weiss asked if there will be an additional concrete pad back there as well? Mr. Betschman said no, we have not planned on that at this time. Mrs. Weiss said I am wondering if there is going to be a sidewalk in the addition on the side for you to get into your garage? Mr. Betschman said no additional sidewalk; possibly a door opening to the deck. It would be a standard door, not a garage door.

Mrs. Weiss asked the applicant if he had a drawing of the completed project? Mr. Betschman said we don't have a complete drawing of the addition yet; I have a vertical drawing showing the house from the air and we'll cover the space of the deck. Mr. Kersten said that is one of the disadvantages of virtual, we have drawings here, but unfortunately, you can't see them (virtually). Secretary Milanko said she asked for a drawing of the completed project and we don't have that. Mr. Kersten said we have an aerial view. Mrs. Weiss stated she researched online and also has the aerial view. She said the reason I asked what the finished project will look like is even though we don't have any windows on that side of the house, we do sit in our backyard a lot and we will be seeing this. She said there are just some questions that need to be answered because it does influence us because of the way the configuration is in our backyards, it is very close as it is.

Mrs. Weiss asked if our fence or property gets damaged, who is responsible for that to get fixed? Mr. Betschman said your question is if your property gets damaged with the addition? Mrs. Weiss said yes, with the installation of this or with the addition. Mr. Betschman said I would think the contractor would be responsible. He said there will be no one anywhere close to your property and you do realize we can add 15 feet under the present rules, we are asking for another 5 feet. Mrs. Weiss said I completely understand that, the Brunswick Hills website has been very helpful. Mr. Kersten asked Mrs. Weiss, is that fence exactly on the property line? Mrs. Weiss said yes, we had Medina Fencing do this, we did it all to code and we got a permit for it. Mr. Kersten said sometimes when people put fences in, they get off a little bit.

Mrs. Weiss said I have two more questions. First of all, there is a very low spot between our houses and when it rains the water settles there. We are concerned if there is this new construction with the variance that it is going to push the water towards our house. Mr. Betschman said, again, we are not taking up more than a foot of the area between our deck and your fence; we are not filling that area at all; there

will be no change to the area. He said we will have troughs or down spouts that will carry water away from the roof. Mrs. Weiss said, ok, so you will be having gutters and drainage? Mr. Betschman said absolutely. Mrs. Weiss said great; that is a very helpful answer, because we were very concerned about that. She said, as you know, our neighborhood has problems with flooding and we really want to avoid that as much as we can. End of testimony and questions.

Chair Kersten asked if there is additional public comment and asked the board if they had further questions. No additional public comment or further questions.

REVIEW OF THE DUNCAN FACTORS FOR 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.** Mr. Kersten-yes; Mr. Wetterman-yes; Ms. Barron-yes; Mr. Spiker-yes; Mr. Lucien-yes.
- B. Whether the variance is substantial.** Mr. Kersten said they are asking for a three-foot variance, I will say no, it is not substantial. Mr. Wetterman said no; Ms. Barron-no; Mr. Spiker-no; Mr. Lucien-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. Spiker-no; Ms. Barron-no; Mr. Wetterman-no; Mr. Kersten-no; Mr. Lucien-yes.
- D. Whether the variance will adversely affect the delivery of governmental services.** Mr. Kersten-no; Mr. Wetterman-no; Ms. Barron-no; Mr. Spiker-no; Mr. Lucien-no.
- E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Mr. Kersten said I believe I asked him and he testified no; so, I'll go with no. Mr. Wetterman said I'll have to say yes; Ms. Barron-no; Mr. Spiker-no; Mr. Lucien-yes.
- F. Whether the property owner's predicament can be obviated through some method other than a variance.** Mr. Spiker-yes; Ms. Barron-yes; Mr. Lucien-yes; Mr. Wetterman-yes; Mr. Kersten-yes.
- G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** Ms. Barron-yes; Mr. Spiker-yes; Mr. Lucien-no; Mr. Wetterman-no; Mr. Kersten-no.
- 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-no; Mr. Wetterman-no; Ms. Barron-yes; Mr. Spiker asked the Secretary to read it one more time. Mr. Spiker-yes; Mr. Kersten-no.

Chair Kersten asked the board to study their Duncan Factors and then he will call for a motion.

Motion for Variance Request for 4920 Emerald Lane

Motion: Mr. Spiker moved to approve it. Secretary Milanko stated Mr. Spiker made a motion to approve the variance request for 4920 Emerald Lane, Brunswick Hills, Ohio, PP#001-02A-11-071. Ms. Barron seconds. **Roll Call:** Mr. Lucien- I do not approve. Mr. Kersten said you are voting no. Secretary Milanko stated a no vote is not approving the variance. Ms. Barron-yes; Mr. Wetterman-no; Mr. Spiker-yes; Mr. Kersten-no. Secretary Milanko said we have a majority of three no votes to two yes votes for approval. The majority is for denial. Chair Kersten said your variance request has been denied and if you feel you've been wronged or unjustifiably treated here, you have 30 days after the signing of the minutes to apply in Medina Municipal Court in an appeal to the decision of this board.

Adjourn Emerald Lane Variance Request Case: Chair Kersten adjourned the 4920 Emerald Lane case at 7:30 p.m.

CONTINUED BUSINESS: Continued Public Hearing

(2) Turnberry Partners, 1285 Marks Road, Valley City Ohio, Conditional Use Zoning for property located at 1595 Substation Road, Brunswick Hills, OH 44212, PP# 001-02C-05-028, Current Zoning I-1 Industrial, for approval of a self-storage unit facility consisting of nine self-storage structures with a total of 467 self-storage units.

(3) Anthony R. Vacanti, Esq, Counsel for owner, 950 Main Avenue, Suite 1100, Cleveland, OH 44113, Variance request for 1595 Substation Road, Brunswick Hills, OH 44212, PP# 001-02C-05-028, Current Zoning I-1 Industrial, for proposed self-storage unit facility consisting of nine self-storage structures with a total of 467 self-storage units.

Chair Kersten called the second hearing to order at 7:31 p.m. with same sitting board members in Case#1. Mr. Kersten said the next Case is 1595 Substation Road and they called to ask for a continuance. Mr. Kersten asked if the applicant was present.

TESTIMONY & EVIDENCE

1. Anthony Vacanti, Land Use Counsel (Representing the Applicant/Property Owner) with Tucker Ellis LLC, 950 Main Avenue, Suite 1100, Cleveland, OH 44133 was sworn in. Mr. Vacanti attended the meeting virtually and summarized where things are from the applicant’s perspective. He said at last month’s meeting, as you may recall, we requested a continuance which this board granted to further look into the plans and cost estimates and see if we can resolve the fire concerns with the property and also provide a marketing study. He said as we discussed, that was a lot to get done in a month and as this board was well aware, it may not have been done in a month and this board even indicated if we needed more time to feel free to reach out and ask for that. Mr. Vacanti said we have looked at the plans. I know our engineer who was present at the last meeting did send those plans to the Fire Chief. The Fire Chief did respond with two options and we are looking into the cost effectiveness of those two options and we are almost finalized with the marketing study which was asked for by the board. Mr. Vacanti said I know that the board wanted the final plans in advance of the hearing, but that was abundantly clear that was not going to be possible and I did request for a continuance of this hearing. He said although time is of the essence because of building supplies and so forth, we want to make sure you have all of the information and we want to make sure we have the final plans to present before you, so that is why we are requesting a continuance of some additional time so we can provide you with that information and address any concerns that the township has raised.

Chair Kersten asked, so that is your request tonight, for a continuance? Mr. Vacanti said correct. Mr. Kersten said at this time I would like to call on our Chief of the Fire Department and he has a few words he would like to say.

2. Anthony Strazzo, Fire Chief, Brunswick Hills Township Fire Department (still sworn in) said I would like to recommend to the board that the continuance be denied at this point due to the significant changes to the site plan, obviously the lack of the marketing study and the other items that the board had requested in addition to the request from the Fire Department have yet to be met as well. He said at this point, basically you are looking at a new project that is going to be submitted so I’d recommend to the board a denial of continuance at tonight’s meeting. Mr. Kersten asked Mr. Vacanti if he had any

comments. Mr. Vacanti said I would like to ask the Fire Chief a question, please Mr. Chair. Mr. Kersten said you may. Mr. Vacanti asked Sir, what is your concern from a fire perspective of a continuance for us to finalize the plans from a fire and safety perspective? Chief Strazzo said we still haven't seen any plans related to fire protection that meet the needs. He said those plans were to be submitted with submission with the original zoning, so at this point, we already gave you an extension. I don't feel at this point, I believe that there is going to be modifications in the building sizes which can affect fire protection systems and the layout of the entire facility, which as you put it, needs a new set of drawings and plans. If you are going to a new set of drawings and plans, at that point you are resubmitting a project. Mr. Vacanti said now when you say we, are you a member of the Board of Zoning Appeals Sir? Chief Strazzo said no I am not. Mr. Vacanti said and you do realize our request is so that we can provide that information for you, correct? Chief Strazzo said you were given the opportunity to do that and you failed to do that at this point.

Mr. Vacanti said may I ask with whom you have spoken to concerning this case? Chief Strazzo said no you may not ask, thank you. Mr. Vacanti said actually, you are under oath and I have the right to cross examine the witnesses, so I am asking with whom you have spoken with regard to this case. Chief Strazzo said the State Fire Marshall. Mr. Vacanti said pardon me? Chief Strazzo said the State Fire Marshall. Mr. Vacanti said and nobody else? Chief Strazzo said I don't have a list, there is no list so no, I don't (? words inaudible) that. Mr. Vacanti said so the fire and safety concern is that you don't want to allow us additional time to provide that information to you. Chief Strazzo said the time was provided, we allowed you time to do that. Mr. Vacanti said but you are not a member of the Board of Zoning Appeals, correct? Chief Strazzo said that is correct; I already answered that question.

Chair Kersten said we take into consideration what the Chief says. Mr. Kersten said one question I will ask you, are you changing the size or the buildings; decreasing the size of the buildings, or doing any other changes? Mr. Vacanti said that is part of what we are looking at depending on what is acceptable to the Chief with the two different options on March 26, 2021 by way of email with our engineer, so obviously those two options have different costs and arrangement from the building perspective and so that is what we are in the process to continue to engage in to make sure that this board has a finalized set of plans. He said we want to get this board the information it wants and want to get the Fire Chief the information he wants and with all due respect to the Fire Chief, I'm trying to get that information and I don't know why an objection for a continuance has a legitimate fire and safety issue on which he can imply. He said I don't mean to be adversarial, but I've never seen anything like it quite frankly so that is why I was asking.

Mr. Kersten said you've answered my question, so I will make a recommendation myself, as Chairman, that you be denied your continuance and henceforth, everything that's turned over will go through the Zoning Office again. Chair Kersten said this application will be no good and you will go through the Zoning Office with all new applications. Mr. Vacanti said the only question, Mr. Chair, at the last hearing we said that we needed additional time and I don't know if it was you or a board member and we had a whole discussion and the Fire Chief was there as well, that if we needed additional time as we thought it would be a tall building to climb to get all of this information done to feel free to ask and it wouldn't be a problem and the minutes... Mr. Kersten interjected and said but once you deviate from the original application, that application is null and void and you must go back through zoning. Mr. Vacanti said that is not what we discussed last meeting, Mr. Chair. Mr. Kersten said I don't care what..... I'm telling you what the rule is right now. Mr. Vacanti asked have the rules changed? That's Arbitrary and Capricious. Mr. Vacanti said at this time, I respectfully withdraw the application and this will be addressed to the members of the board. Chair Kersten said ok; you are withdrawing your applications? Mr. Vacanti said we are withdrawing our applications. Mr. Kersten asked, both applications? Mr. Vacanti said yes, correct. Mr. Kersten said alright then, that's that.

Secretary Milanko asked if that was a discussion? Was there a motion or a second? Chair Kersten said no I didn't make a motion because he is going to go ahead and withdraw. Secretary Milanko said you were going to call for a motion; ok. Chair Kersten said under the Ohio Revised Code, if an applicant changes the application in any way, they must resubmit. Mr. Vacanti said that is not under the Ohio Revised Code; if it is, I ask for a citation. He said just for the record, I object. I relied on this board's representations that we be allowed to request for a continuance. Mr. Vacanti said the record is clear and it is recorded and this deviation, I do have a concern with and let the record reflect it, it's coming from somewhere. We came to you in good faith and we've been working hard on this project. Chair Kersten said but you are changing the application....Mr. Vacanti interjected and said we talked about this at the last meeting and that's why we asked for a continuance. Chair Kersten said you cannot change a.....I mean I'm not going to argue it. Mr. Vacanti said the record is the record. Mr. Kersten said you withdraw, ok. Mr. Vacanti said I do.

MOTION: Mr. Wetterman made a motion to accept the applicant's withdrawal of his applications. Mr. Kersten said we have a motion to accept the applicant's withdrawal of the applications, do we have a second? Mr. Kersten seconds the motion. Secretary Milanko stated the motion is to accept the applicant's withdrawal of both applications. **Roll Call:** Mr. Lucien said yes; I don't know how you can say no; Mr. Spiker-yes; Ms. Barron-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

Mr. Vacanti thanked the board members and said hopefully we will be able to work this out in the future.

ADDITIONAL BUSINESS: Mr. Kersten asked if there was additional business. Secretary Milanko stated the board will hear the Southwest Baptist Church, 329 N. Carpenter Road case at the May 5th meeting.

PUBLIC COMMENT: NONE

MOTION TO ADJOURN: Mr. Wetterman made a motion to adjourn tonight's meeting. Mr. Lucien seconds the motion. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 7:44 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Cliff Kersten, Chair

Date