

**Brunswick Hills Township Board of Zoning Appeals
Public Hearing Meeting Minutes
Township Hall & Zoom
May 5, 2021**

Call Meeting to Order

Chair Kersten called the Brunswick Hills Township Board of Zoning Appeals Public Hearing Meeting for May 5, 2021 to order at 7:00 p.m. A roll call of the board was executed.

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

Chair Kersten stated we have a full board quorum present. The Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code.

New Business: Approval of Minutes

1. **BZA March 3, 2021 Public Hearing Minutes** – **Motion:** Mr. Schigel made a motion to approve the March 3, 2021 minutes as written by Madam Secretary. Mr. Wetterman seconds. **Roll Call:** Ms. Barron-yes; Mr. Wetterman-yes; Mr. Schigel-yes; Mr. Lucien-yes; Mr. Kersten-yes.

2. **BZA April 7, 2021 Public Hearing Minutes** – **Motion:** Mr. Wetterman made a motion to approve the April 7, 2021 minutes as written. Mr. Kersten seconds. **Roll Call:** Mr. Schigel-abstain; Mr. Lucien-yes; Ms. Barron-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

Continued Business: Public Hearing Continued from February 16, 2021

(1) Southwest Baptist Church, 329 N. Carpenter Road, Brunswick Hills, Ohio 44212. Area Variance request for construction of a new accessory building for multi-use functions for a height of 26 feet. PP#001-02-B07-005, 5.45 acres, current zoning R-1 residential.

Chair Kersten swore in Evelyn Czyz, Zoning Inspector and Anthony Strazzo, Fire Chief.

TESTIMONY & EVIDENCE

1. **Pastor Gregory A. Davis, 363 N. Carpenter Road, Brunswick Hills, Ohio 44212 was sworn in.**

Mr. Kersten asked how he is connected with the church. Pastor Davis said I am the Pastor and we are picking up where we left off at the last meeting because there were outstanding issues with the Medina County Building Department and the Brunswick Hills Fire Department and I was asked to correct the outstanding issues. Pastor Davis said in response to those issues, we did email in the Conformance Approval from the county and in fact today, I received the complete plan approval from the county and approval for the fire alarm system. Secretary Milanko distributed 10 copies to the board members.

2. **Anthony Strazzo, Chief, Brunswick Hills Fire Department** stated that Pastor Davis is correct that they have met the conformance issues that were outstanding to both the Medina County Building Department and the Fire Department. He said those letters of conformance were issued today and posted to the Medina County Building Department permit section today. He said as far as the Fire Department is concerned, we thank Pastor Davis and his congregation for making the changes to the building in the essence of safety for everyone who is going to be in the building attending a function or a service. Chief Strazzo said at this time we have no further issues or comments and thanked Pastor Davis for his efforts.

Questions by the Board

Mr. Schigel referred his question to the Zoning Inspector and said I'm thinking of the word transferrable when it comes to this. Is the conditional permitted use for the church that is on the property, is that permitted use allowed for the accessory building where there is going to be services and congregation? Mrs. Czyz said no; the conditional was just issued initially for the church. What he has applied for is an accessory building which are two totally different beasts. She said one is the church, which is the main building, and then the applicant has applied for an accessory building and the height to that accessory building. Mr. Schigel said so the permitted use is not transferrable. Mrs. Czyz said the permitted use is not transferrable; variances go with the property, not conditional uses. Mr. Schigel said if we were to approve the accessory building tonight, would he have to get a permitted use to use it for a church? Mrs. Czyz said yes, he would have to get a conditionally permitted use. Mrs. Czyz said and remember, the Building Department may go under a set of rules of their own that may not necessarily conform to the rules and regulations of Brunswick Hills Township, which are the ones that have to be adhered to here.

Mr. Wetterman stated he would like to read a definition of the Accessory Building in our zoning book and said it is supposed to be a subordinate building to the facility. He said we do have a different definition of a building in our zoning book called Institutional and read: **Institution**: *A building occupied by a non-profit corporation or a non-profit establishment for public use.* Mr. Wetterman said I think that sounds more like what you are interested in. Pastor Davis asked what the height requirement is for that building. Mr. Wetterman said there are none because it is not an accessory building.

Pastor Davis said I can read the emails from late last year where I voiced my concern that it is not an accessory building; that was my feeling from the beginning. Mr. Kersten said it is definitely an accessory building because there is no common wall between the buildings. Mr. Kersten said and that is what you put in your application for that you wanted. Pastor Davis said that was the direction I was told to apply. Mrs. Czyz said it is an accessory to the main building being the church. Pastor Davis said I think the clarifying word is "incidental" in the definition. He said incidental means not pertaining to the main purpose. Mrs. Czyz said but the height limitation in an R-1 Residential District is 15 feet to the peak and in a Rural Residential it is 25 feet to the peak. She said you exceeded that by one foot in a RR and by 11 feet in a R-1 District, thus the reason for a request for an area variance. Pastor Davis said the verbiage is confusing for me and obviously it is confusing for you, but this is what we want to do so whatever pathway gets us there is the pathway we intended on taking from the very beginning. Mr. Kersten said your application is for an accessory building. If you want to apply for anything else besides an accessory building, you would have to start all over through the zoning office. Mr. Schigel said if he were to use the accessory building as the church, as the principal mainstay, what is going to happen to the other building? Does it have to be razed because now the new building is technically the main building? Mrs. Czyz said it would have to be razed or he would have to apply for a variance to have an accessory building to the main building. She said if you look at the Certificate of Plan Approval from Medina County Building Department, it says a height of 28 feet and the township application calls for a height of 26 feet, so we are already increasing that by another two feet. Mrs. Czyz said what is it going to be? One says 26 feet and one says 28 feet. Pastor Davis said I filled these applications out in October of last year and these plans have to go through several revisions with the county. He said for the load of the roof, it made one of the girders in the Mezzanine too short, so the parapet walls across the top had to be extended.

Mr. Wetterman stated he's done some considerable research and there are several churches in Brunswick Hills Township that do have more than one building on their property. He said the way it's been explained to me, they are considered commercial buildings. He said in your case, your church is considered a commercial building within a Residential District. Mr. Wetterman said with the proper applications, you can have more than one commercial building on your lot, but they way that you have applied for it or whatever the case may have been, is not proper. Mr. Wetterman said I may ask you to withdraw your application as an accessory building and start over. Pastor Davis said as long as we can all be in agreement because the Zoning Inspector says it is an accessory. He said this is the problem with the verbiage, so we

don't want to run around in circles. The building is what we'd like to put up so whatever path gets us there. He said it becomes frustrating when no one knows how to get from point A to point B based on the township writings. Mr. Wetterman asked, when the Building Department approved your building, did they call it an accessory building? Pastor Davis said no. Mrs. Czyz said we are calling it an accessory building because under the Brunswick Hills zoning it is an accessory building so whatever they are calling it (Building Department) that's on their rules. Mr. Wetterman said understood, but what if he were to apply for a commercial building on a residential lot, what would his allowances be? Mrs. Czyz said he would have to apply for a variance. She said she has never had anyone apply for a commercial building on a residential lot. Mr. Wetterman and Mr. Lucien asked how these other churches got their buildings. Mrs. Czyz stated she didn't know as that was before she was the Zoning Inspector. Mr. Lucien said that is critical information. Mrs. Czyz said if you provide the addresses, she will look through the township records.

Ms. Barron referred to the application where it says multi-use functions; main room used as sanctuary and gym and asked Pastor Davis to describe the uses in detail because it would be nice to see the plans. Pastor Davis said if you go to our website www.southwestbaptist.org there is a video walking through the proposed building. He said it is a gymnasium sanctuary so chairs can be set up in the gymnasium or larger Sunday morning church services, or special Sundays. He said we would use our smaller sanctuary for Sunday and Wednesday night bible studies and the gymnasium room is for fellowship, for meals, etc. He said then there are classrooms, lobby, offices and an upstairs mezzanine on the other half of the building.

Mr. Lucien asked Mr. Wetterman, since you did the research on these buildings, what is the process to apply for the commercial building? Mr. Wetterman said in our zoning book there are no definitions of commercial buildings. Mr. Lucien asked if it would be a county application or a township application. Mr. Wetterman said I believe it would be applied for with the township. Mr. Wetterman said I asked the Building Department if there is a definite difference in the rules and regulations between residences, churches, schools and other institutional buildings and I was told there is definitely a difference. Mr. Wetterman said in a Residential District, especially and R-1, a church is going to be considered institutional and a commercial building on a residential lot. He said I do not have the specifics on how to apply for it.

Chief Strazzo said the Bethel Church, which is located at 197 N. Carpenter Road is a relatively new church built within the last seven years since I became Chief. He asked Mrs. Czyz if she could say how that building was built and noted there are several other structures on that property. Mrs. Czyz stated she could not answer that off hand. Chief Strazzo suggested Pastor Davis check with the Bethel Church to see what regulations they built under. Mrs. Czyz said on the site plan that was provided says the new addition total square footage is 12,432 square feet and the plans from Medina County, the project square footage is 15,528 and said that is quite a difference. Mr. Wetterman said the point she is making is that your application says one thing and that is what we have to go by and make our judgments on. He said once those numbers are changed, we have no choice on our vote because you are not following your original application. Pastor Davis said to our defense, we started this project in October and then Covid hit but we were still trying to move along with architects and engineers. Mr. Wetterman said I want to make this perfectly clear; I approve of your concept and I think your building is going to be great for the area, but it is not being applied for properly. Pastor Davis said the Zoning inspector and I have disagreed since the beginning. Mr. Kersten said it comes down to one thing this board must go by and that is whatever the application asks for...anything above what the application calls for, the board will reject your application. He said whenever things change like the size of the building, more frontage, etc. that is not in that application, we cannot approve it. Mr. Wetterman asked if amendments to the application are allowed. Mr. Kersten said he would still have to come back through the Zoning Office with a new application. Mr. Schigel said when we write our statement for approval or not approval, we have to put the specific height that you are requesting so if we were to approve it based on the application you submitted it would be for up to 26 feet. He said if your new building is really required at 28 feet, you would have to resubmit to get that.

Mr. Schigel asked in a conditionally permitted use in R-1, does a church have to adhere to the 25 feet or can they adhere to the I-1 church standard of 50 feet? Mrs. Czyz said it wouldn't adhere to the I-1, it would have to be the commercial height and said a house can be 35 feet. Mr. Schigel said if he were to get a conditionally permitted use for a church, would he be able to build it up to the height he is looking for? Mrs. Czyz said my suggestion is that he apply for a commercial building. Mr. Lucien said there is another way to do this and that is run this through tonight with a motion to approve; take a vote and do the Duncan Factors and if it is turned down, he can then apply under the other guidelines in the book. He said if he gets it tonight then he is good. Mr. Wetterman said at this time to make things easy I would like to make a motion to approve his application as written. Mrs. Czyz said she suggests Pastor Davis apply for a commercial building application and we will figure out the fee and credit him the \$500 that was paid for this application towards his new fee. Mrs. Czyz said if you were to deny this application request then one of the questions on the application is have you every applied for a variance and he would have to say yes, however, variance denied so it's not on the record. She said you can disregard this application and he can apply for a commercial building. Mr. Kersten said he can withdraw his application. Pastor Davis stated I would like to withdraw the application for the accessory building height.

Motion to Withdraw Application for 329 N. Carpenter Road: Mr. Kersten made a motion to accept the withdraw of the application. Mr. Schigel seconds. **Roll Call:** Ms. Barron-yes; Mr. Lucien-yes; Mr. Wetterman-yes; Mr. Schigel-yes; Mr. Kersten-yes.

STORM WATER RETENTION LOCATION, 329 N. Carpenter Road

A letter and supporting document from Storm Water Management was submitted to the Zoning Office by Pastor Davis, Southwest Baptist Church on December 22, 2020 regarding allowance for the location of stormwater retention due to (1) the low grade of the parcel and (2) the shallow nature of the drainage ditch. A Plot map from the engineer and an email from Dan Wilhoite from the County recommending the location for greatest runoff and pipe cover allowances was also included.

Mr. Kersten said you've withdrawn your application so everything from now on will go through the Zoning Office. Pastor Davis asked if a variance was needed for the location of the storm water retention. Mrs. Czyz stated I can't tell you that because that is determined by the county. Pastor Davis said I think the issue was that the township rules say it has to be 50 feet from a waterway. Trustee Kusnerak advised the board to look under Riparian Setbacks in the code. Mr. Wetterman said in an R-1 it must be 50 feet from the highwater mark. Pastor Davis said the proposed drawings and plot map from the county indicates it is closer than 50 feet to the drainage ditch. Mr. Wetterman said that is between him and the county. Mrs. Czyz asked what Mr. Wilhoite from Storm Water Management said about that. In the letter Mr. Wilhoite said *I checked the Brunswick Hills Township setbacks for Riparian areas in 303-11(G) **Storm Water Retention and Detention Facilities:***

Storm water retention and detention facilities are permitted subject to other regulations contained in this Zoning Resolution and the regulations enforced by the Medina SWCD and the Ohio EPA. Storm water retention and detention facilities shall be located a minimum of fifty feet from the ordinary high-water mark of the designated watercourse.

Mr. Wilhoite said if the variance for the Riparian regulations is obtained from the township, our office would not object to the retention basin being in the location indicated. From a review of the conceptual grading plan, it appears that most of the proposed graded area for the retention basin would slope back and drain back into the basin. It does not appear that the grading for the retention basin would restrict the stream channel flow in any way. (Signed) Dan Wilhoite, Civil Engineer, Medina County.

Mr. Lucien said since we don't have a township engineer to look at this, wouldn't that be a thumbs up from the county engineer from our perspective and automatically transfer? Mrs. Czyz said even if the township had an engineer on the staff, the county would still supersede us and with Mr. Wilhoite saying he has no problem with it, we have it in writing so if something happens, we went on his recommendation.

Mr. Wetterman asked if that calls for a variance on that. Mrs. Czyz said Mr. Wilhoite wants a variance on that so you can just incorporate that right now.

Motion to Approve Variance Recommendation for Storm Water Retention Location at 329 N. Carpenter Road.

Motion: Mr. Wetterman made a motion to accept the variance recommendation to allow the storm water retention as advised by the Civil Engineer on that project. Mr. Lucien seconds. **Roll Call:** Mr. Schigel-yes; Mr. Wetterman-yes; Ms. Barron-yes; Mr. Lucien-yes; Mr. Kersten-yes. Motion carries to approve a variance for storm water retention area as recommended by Dan Wilhoite, Medina County Civil Engineer. Mr. Kersten told Pastor Davis you will receive a decision letter from the board in 30 days.

PUBLIC COMMENT: None

ADDITIONAL BUSINESS:

1. **Decision Letter for 4920 Emerald Lane** – **Motion:** Mr. Wetterman made a motion to accept the decision letter as presented by Madam Secretary. Mr. Lucien seconds. **Roll Call:** Ms. Barron-yes; Mr. Lucien-yes; Mr. Wetterman-yes; Mr. Schigel-yes; Mr. Kersten-yes.

2. **New Zoning Applications Received for June 2, 2021 BZA**

Mrs. Czyz stated the BZA has receive seven applications for the June meeting; six (6) Variances and one (1) Conditional Zoning and distributed copies to the board.

3. **BZA Training**

Trustee Kusnerak stated she received an email from Brian Richter, Medina County Prosecutor’s Office and they are putting together a virtual training session regarding public hearings that will include Liverpool Township and Brunswick Hills for either May 13, 18 or May 20th at 5:00 p.m. via Zoom and asked board members to respond to her with their availability.

ANNOUNCEMENT OF NEXT MEETING DATE: Wednesday, June 2, 2021 @ 7 p.m.

MOTION TO ADJOURN: Mr. Wetterman made a motion to adjourn. Mr. Kersten seconds. **Roll Call:** all in favor to adjourn. Meeting officially adjourned at 8:11 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Cliff Kersten, Chair

Date