

**Brunswick Hills Township Board of Zoning Appeals  
Public Hearing Meeting Minutes  
Township Hall  
September 1, 2021**

**Call Meeting to Order**

Chair Kersten called the Brunswick Hills Township Board of Zoning Appeals public hearing meeting for September 1, 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, Linda Kuenzer
- **Alternate Board Members Not in Attendance:** Daryl Lucien (Excused Absence)
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector, Trustee Christina Kusnerak, Mary Jean Milanko, Secretary.

Chair Kersten stated a quorum is present. The Brunswick Hills Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code.

**Approval of the August 4, 2021 Minutes**

**Motion:** Mr. Kersten moved to accept the minutes as submitted by the Secretary. Mr. Schigel seconds.

**Roll Call:** Ms. Barron-yes; Ms. Kuenzer-yes; Mr. Wetterman-yes; Mr. Schigel-yes; Mr. Kersten-yes.

**New Business Public Hearing: The Family Tavern, 1868 Pearl Road, Brunswick Hills,** area variance request for an eight-foot fence per Sec. 303-6 (H) Fences, zoning district C-3.

Chair Kersten swore in Evelyn Czyz, Zoning Inspector.

**TESTIMONY & EVIDENCE**

**William Eugene Fonseca, 2620 Plum Creek Parkway, Brunswick Hills (Applicant) was sworn in.**

Mr. Fonseca said I am presenting an application for an eight-foot fence for the Family Tavern, 1868 Pearl Road, Brunswick Hills, Ohio. He said our fence was refurbished and acquired by a personal friend, Johnny Martin, who was installing the fence when we were stopped by Evelyn Czyz and we were instructed to stop the installation of the fence because it was too high. Mr. Fonseca said we put the fence there to make our place better for safety and security. He said we are just trying to make our place look better and we want it for sound because we've had some feedback from the folks behind us. We have a lot of expensive equipment: coolers, sound equipment and we want to keep our place safe and secure. We have a couple of 20-foot gates that will enable us to let the bands come in. We have another six-foot gate to let our beer orders come in and out. They will all be locked and we will have a lock box with the keys for the Fire Department if they ever have to get in there. He said it is all about safety and security for our equipment and our stuff back in the pavilion. The old fence was a six-foot wooden fence that's been there for a long time and it was dilapidated and ugly. Just want to make our bar look better and make it safe & secure.

**QUESTIONS BY THE BOARD**

Mr. Kersten asked if he felt the eight-foot-high fence would offer more security than a six-foot fence. Mr. Fonseca said absolutely, nobody is going to get over an eight-foot fence and it is also more aesthetically pleasing. Mr. Kersten asked what the new fence will be constructed of. Mr. Fonseca said I think some of you were there and took pictures, but it is a chain link fence and will be professionally installed with concrete. Mr. Kersten stated no board members are permitted to take pictures of an applicant's property. Mr. Fonseca said he was told there were people over there. Mr. Kersten said whoever it was, it was not a board member. Mr. Fonseca said he welcomed everybody to come over and take a peek. We have a big conex box there and right now it is wide open so it makes me nervous because there is a big development going in over there and my place is wide open right now. He said without the fence it is very insecure.

Mr. Kersten explained that when the board gets an application, the Zoning Inspector will mark on the application whether a board member can visit the property by appointment only or if they can just go there and look at the property. Mr. Kersten said each board member does inspect the property on the application, but under the law they can't talk to you, He said being a public bar, I don't know that you really need to knock on the door and say you are there, but we do with the homes. Mr. Fonseca said the fence will be installed properly. Mr. Kersten said as you install the fence and after you install the fence, it has nothing to do with this board; that is strictly up to the Zoning Inspector.

Mr. Wetterman asked if there is a fence at the back of the property now between you and the residents behind you? Mr. Fonseca said there was a little rickety fence back there, but now I just want to protect the parking lot and our assets back there. Mr. Wetterman asked if the new fence will go back there. Mr. Fonseca said yes it will go in the back of the building and around the assets we have back there. Mr. Wetterman said, being a cyclone fence it won't help with any sound going into the other neighborhood. He asked if it would be better or worse than a wooden or stockade fence for sound? Mr. Fonseca said we are putting a covering over it. Mr. Wetterman asked, with the previous six-foot fence, did you have a problem with people climbing over the fence? Mr. Fonseca said if somebody would have tried to climb over it, it would have fallen down. He said the fence was very insecure, you could have pushed it and it would have fallen down.

Mr. Schigel asked, when you purchased the property, were you aware of any of the zoning requirements for a fence? Mr. Fonseca said, no sir. Mr. Schigel said looking at the map, is the chain link fence just going to be an L-shape on the side of the building and going back a little bit? Is it on the whole property or just on that one L-section? Mr. Fonseca asked if Mr. Schigel had been there. Mr. Schigel said I was just in the parking lot, so I didn't walk the whole thing, per say, but I did Google Earth it. Mr. Fonseca said it will go all the way along the side and will tie into where the conex box is.

Ms. Kuenzer asked if there is a fire or an emergency, would people still be able to get out of there? Mr. Fonseca said absolutely; it is only going to be locked when we are closed. He said when bands are playing and stuff like that, it will be secured so people can't be walking out to the parking lot with open drinks and things like that. He said so it's another good thing because it will secure stuff and prevent people from walking out with drinks and things.

Mr. Wetterman asked what time of night does the band stop playing? Mr. Fonseca said usually from 7 p.m. to 11 p.m. Mr. Kersten said that is not necessary, we are just interested in the fence. Mr. Schigel said I read in our code that no chain link fence was allowed in front yards; this is on the side and the back, is there anything anywhere else that I didn't catch? No response by the board. Mr. Schigel said, so it's good on the side and the back. Mr. Kersten said yes.

Ms. Barron asked about the cover going over the chain link fence and asked if he could describe what the plans are for that and what the covering is made of. Mr. Fonseca said it's probably going to be like a cloth or a nylon type, but it will be aesthetically pleasing and will look nice. He said we want to make our bar look better and attract people, so it will be nice. Mr. Kersten said this is for sound and asked if there is anything up like that now when the bands are playing back there. Mr. Fonseca said yes. Mr. Kersten asked, do you know of any complaints against you for the sound? Mr. Fonseca said no; we try to get along with our neighbors.

Mr. Kersten asked Trustee Kusnerak if she knew of any complaints to the township about noise? Trustee Kusnerak said I do. Chair Kersten swore in Trustee Kusnerak. Trustee Kusnerak said I am not sure how long Mr. Fonseca has owned this bar, but I can tell you that our police department has been called out there several times over the last five years with noise complaints from the residents that live behind and they actually live in the City of Brunswick, but they have complained about the bands and noise and stuff. She stated that is all I know. Mr. Fonseca said we've had complaints about the band and stuff, but this year we had a complaint one time. There was a police report and they came up at 11:30 p.m. when the band stopped.

Mr. Kersten asked how long he owned this property. Mr. Fonseca said four years and I challenge you to look up the police reports this year, because it was only one time. He said we had to go to court over this because Brunswick Hills does not have a sound ordinance, and the people in Brunswick were complaining. Mr. Kersten said it would be hard not to have a complaint if you are having bands and selling alcohol; somebody is going to complain somewhere. He said you've had one complaint in the year you've owned it and there is nobody else here tonight saying any different, so we take that as your word. Mr. Fonseca said it got ridiculous there for the first few years. We went to court and we won our thing, but for this year, one time. He said it's been a non-issue; I haven't had any cops out here. Mr. Kersten asked what time do you usually secure from music in the pavilion? Mr. Fonseca said we used to go from 8 p.m. – 12:00 p.m. and I've changed the time up to be respectful to the residence. I put in insulation and we've done a lot of things to try to be respectful to those folks on Friday and Saturday nights.

Evelyn Czyz, Zoning Inspector, said in speaking with our Fire Prevention Officer the other day regarding this area variance, I asked him about fire prevention and if he had any concerns. Ms. Czyz said he said anytime he has gone in there, if there were any concerns, they were addressed immediately. She said to me, in any establishment that is a plus and she wanted the board to know that. Mr. Schigel asked Ms. Czyz, if we approve this tonight, does he still need to get a building permit? Ms. Czyz said he needs to get a fence permit from our zoning office and he will also need to get a permit from Medina County if it is eight feet or higher, especially in an industrial or commercial area.

#### **PUBLIC COMMENT TESTIMONY & EVIDENCE**

**1. John Martin, 1818 Substation Road was sworn in** and said William and Pat (applicants) are my friends and I'm trying to help them get their place together. Mr. Martin said this fence will be on the side of the property heading from the east to the west. He said we've been trying hard from the beginning with these people complaining. He said we even got a noise meter and we went down there and checked the decibels and it is nowhere near what they are complaining about, but we feel this will help. He said we are looking at an eight-foot fence from the tower and we thought we were just replacing a fence and didn't realize there was an ordinance on it so that's why we are asking for your help.

#### **REVIEW OF THE DUNCAN FACTORS:**

- 1. 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. Schigel-yes; Ms. Barron-yes; Mr. Wetterman-yes; Ms. Kuenzer-yes; Mr. Kersten-yes.
- 2. Whether the variance is substantial.** All board members stated no.
- 3. 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.
- 4. Whether the variance will adversely affect the delivery of governmental services.** All board members stated no.
- 5. Whether the property owner purchased the property with knowledge of the zoning restriction.** All board members stated no.
- 6. Whether the property owner's predicament can be obviated through some method other than a variance.** All board members stated yes.
- 7. 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.

8. **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 for Family Tavern, 1868 Pearl Road, variance for an eight-foot fence:** Mr. Schigel moved to approve an eight-foot fence at 1868 Pearl Road, Brunswick Hills, Ohio 44212; PP#001-02C-100-002. Mr. Wetterman seconds. **Roll Call:** Ms. Barron-yes; Mr. Wetterman-yes; Ms. Kuenzer-yes; Mr. Schigel-yes; Mr. Kersten-yes.

Mr. Kersten said we have a 5-0 vote to grant the variance, so your variance has been granted and said in 30 days you will receive a decision letter on the decision tonight. He said in that time, anyone who feels adversely affected by this decision, may appeal to the Court of Common Pleas in Medina County. Mr. Kersten said you have to wait until you get the decision letter before you start putting the fence up. Secretary Milanko asked Mr. Fonseca if he prefers the decision letter to be mailed to the home address or the business address. Mr. Fonseca said the business address is fine.

**ADDITIONAL BUSINESS:**

1. Secretary Milanko stated the board received an area variance application for the October 6<sup>th</sup> meeting for the property located at 2109 Marks Road to build a new home.

**PUBLIC COMMENT:** None

**ANNOUNCEMENT OF NEXT MEETING DATE:** Wednesday, October 6, 2021 @ 7:00 p.m.

**MOTION TO ADJOURN:** Mr. Kersten moved to adjourn the meeting. Mr. Schigel seconds. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 7:32 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

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Cliff Kersten, Chair

Date