

**Brunswick Hills Township Board of Zoning Appeals
Public Hearing Meeting Minutes
Township Hall
April 6, 2022**

Call Meeting to Order

Chairman, Cliff Kersten called the Brunswick Hills Township Board of Zoning Appeals public hearing meeting for April 6, 2022 to order at 7:00 p.m. A roll call of the board was executed.

- **Board Members in Attendance:** Cliff Kersten; Chris Schigel; Ron Wetterman; Ann Barron; Linda Kuenzer
- **Alternate Board Members in Attendance:** Gregg Timura; Mark Jeffers
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector; Trustee Trica Murphy, Zoning Liaison; Mary Jean Milanko, Secretary.

SWEARING IN OF NEW BOARD MEMBER: Trustee Murphy swore in Mark Jeffers as a BZA alternate for a one-year appointment through 2022.

Chair Kersten stated a full board quorum is present. The Brunswick Hills Township acts within the regulations of Sec. 519 of the Ohio Revised Code.

APPROVAL OF MINUTES

1. Approval of the March 2, 2022 Public Hearing Minutes

Ms. Kuenzer noted a correction on page 2 under Approval of the January 5, 2022 to change Ms. Kuenzer “seoc0ds” to “**seconds**”. Ms. Kuenzer noted a correction on page 3, third paragraph. *Change Ms. Kuenzer said what “to” you foresee will be done in that enclosed area now; change to Ms. Kuenzer said what “do” you foresee will be done in that enclosed area now?*

Discussion on the Minutes

Mr. Wetterman said it’s not a correction but perhaps a misstatement and noted page 8, second to last paragraph where it says “*Mr. Wetterman asked Evelyn Czyz if she is declaring this a non-conforming structure because of the area it is in*” and she said “*I do not have a non-conforming structure permit.*” He asked Evelyn Czyz if that is correct. Ms. Czyz said yes. Mr. Wetterman asked the secretary to distribute two handouts: Attachment 1: Brunswick Hills Township Zoning Application which list the application is for: Informal/Concept Site Plan Review; Final Site Plan Approval; Review; Non-Conforming Use Review; Other. Attachment 2: Page 90/119 of the Brunswick Hills Township Zoning Resolution, Article VII – Non-Conforming Uses, Buildings and Lots.

Mr. Wetterman said there are Non-Conforming Uses, Buildings and Lots in our zoning book. He said on the township website there is an application that lists a check list of five categories the application is for and the fourth category is “Non-Conforming Use Review”. Mr. Wetterman said so that may have been an oversight, but I thought I would let the board know that non-conforming structures do exist and there is an application for it.

Mr. Kersten asked Ms. Czyz if she had a response. Ms. Czyz stated I’ve never used this application in 20 years and therefore that is why I stated I did not have it. End of discussion.

Motion to Approve Minutes: Mr. Schigel moved to accept the minutes written by the secretary. Mr. Wetterman seconds. **Roll call:** Ms. Kuenzer-yes; Ms. Barron-yes; Mr. Kersten-yes; Mr. Schigel-yes; Mr. Wetterman-yes.

ADDITIONAL BUSINESS

1. Sign decision letter for William Fonseca, Family Tavern, 1868 Pearl Road variance request for enclosing an existing pavilion/structure.

Motion to Approve: Mr. Schigel moved to approve the decision letter as submitted by the secretary. Ms. Kuenzer seconds. **Roll Call:** Mr. Wetterman-yes; Ms. Barron-yes; Ms. Kuenzer-yes; Mr. Schigel-yes; Mr. Kersten-yes.

NEW BUSINESS – PUBLIC HEARING

1. Gary Geringer, 678 Substation Road, PP#001-02A-19-133, Zoning R-1, variance request for an 8 ft. garage extension per Sec. 303-6 General Regulations of Structures and Constructions.

Mr. Kersten stated to the audience that all comments will be directed to board members only. Individuals that wish to speak will have an opportunity when called on. Evelyn Czyz, Zoning Inspector, was sworn in.

TESTIMONY & EVIDENCE

(1.) Gary Geringer, 678 Substation Road, PP#001-02A-19-133 was sworn in and asked to present his case to the board. Mr. Kersten asked if he knew why he was here tonight and aware of the zoning regulation he is asking the variance for. Mr. Geringer said yes and I realize now that I was supposed to be 18 feet away and I'm only 10 feet away. Mr. Geringer said I added on to the front of my garage and didn't realize the restrictions. He said adding on would allow me to park in my garage and have some extra storage which I badly need. He said my father in-law is living with us now and is using my attached garage because we have lots of storage for him. He said the pole barn isn't large enough for me to get my truck in and I wanted to be able to park it in there and that is the main reason I wanted to enlarge the building.

QUESTIONS BY THE BOARD

Mr. Schigel asked who was doing the construction? Mr. Geringer said I was. Mr. Schigel asked if he is doing the same construction on the other side of the house. Mr. Geringer said yes. Mr. Schigel asked how long ago he started the construction. Mr. Geringer said back in the fall and I ordered the siding about four months ago. Mr. Kersten said and then Medina County Building Department issued a **STOP WORK ORDER** to stop you from building, right? Mr. Geringer said yes. Mr. Schigel said if you have to give a reasonable percent as to where you are right now in building, where would you say you are at? Mr. Geringer said over 50%; I just have to put siding on it and a new garage door. He said what I want the pole barn to match the main structure, so I want to put the same siding and everything else on it.

Mr. Wetterman said so this is actually a pole barn/garage? Mr. Geringer said correct. Mr. Wetterman asked if he went to the building department with his plans. Mr. Geringer said no. Mr. Wetterman asked how long ago the pole barn was built and if he built it himself. Mr. Geringer said the pole barn was built a long time ago. Mr. Wetterman asked if he built it. Mr. Geringer said no, it was built after we built the house. Mr. Wetterman said I would assume there were permits drawn from the building department at the time the original pole barn went up. Mr. Geringer said yes. Mr. Wetterman said they have some pretty strict regulations at the building department on pole barns, including any alterations that are done to the building. Mr. Wetterman said so after you leave here, you will want to check in with the building department. Mr. Geringer said yes. Mr. Kersten stated the board members received a letter from Fire Chief Anthony Strazzo that states the fire department would support approval of the application for a variance.

Mr. Wetterman said this being a pole barn/garage/accessory building in a residential district, the height is 15 feet and your pole barn is 19 feet. Mr. Geringer said that was turned in a long time ago. Mr. Wetterman asked if he remembered what year and asked if it was after 2007? Mr. Geringer said I honestly can't remember, but I have been there quite a few years. Mr. Kersten asked if the pole barn was there when he bought the place. Mr. Geringer said no. I hired someone to build it. Mr. Kersten asked if he had permits? Mr. Geringer said I thought he got permits for it. I can't remember back then because it was so long ago,

but I did hire somebody to put it up. Mr. Kersten asked the Zoning Inspector if she wished to speak. Ms. Czyz stated the permit was issued June 15, 1998; Permit #85 for an accessory building 24 x 30 by Mr. Ruby (former Zoning Inspector). Mr. Kersten confirmed that our zoning department issued a permit for that building. Ms. Czyz said yes.

Mr. Schigel said when you purchased the property, you probably didn't know you would be extending or building on to the garage at that time. He asked if he was aware of any zoning restrictions that may needed to be complied with when he purchased. Mr. Geringer said no; I didn't even think about that.

Mr. Timura said I know you have some room behind the garage and said he was curious why he moved it forward rather than build back. Mr. Geringer said because I already had the concrete there in front of the garage that I utilized before; and the other way I would have to bring in fill and concrete, etc. and I didn't want to go to that expense.

Ms. Barron said it looks like there is another gravel parking area as well. Mr. Geringer said yes, I have the whole one side as parking. Ms. Barron said that is a lot of parking. Mr. Geringer said I used to have big parties. Ms. Barron said so you just feel you need more because of your father-in-law? Mr. Geringer said yes. We have not parked in our garage since he's lived there and I just want to be able to park my truck in the garage and not have to take snow off of it, but I do need the extra storage.

Ms. Czyz said, Mr. Wetterman, you made a statement about the height and said when the permit was issued in 1998, Mr. Ruby filled out most of the application other than the signature and it says height from grade 24 feet, so Mr. Ruby, the former Zoning Inspector, knew very well that it was above the 15 feet. Ms. Czyz said the 15 feet is allowed now, but how was it back then? Mr. Wetterman said right, so wouldn't the add-on be required to be at 15 feet? Mr. Geringer said the addition is not higher than 15 feet and said the roof on the addition is just a lean-to and it's probably no more than 12 feet high. Mr. Schigel said he did not make the same pitch when bringing it straight forward; he projected it out from a lower level. Mr. Geringer presented a color photo of the building for to the board to look at (not submitted for the record).

Mr. Wetterman said the only other question I have is that you built this yourself and asked if that is what he does for a living? Mr. Geringer said I am a contractor. Mr. Wetterman said, don't contractors normally obey zoning laws? Mr. Geringer said I do, but I did not know about the pole barn.... Mr. Wetterman interjected, so you didn't even check into it and said isn't that part of a job of a contractor? Mr. Geringer said I should have so I'll do whatever I have to do because I screwed up. Mr. Kersten asked if there were further comments from the board. Upon being none, he called for public comment.

PUBLIC COMMENT / TESTIMONY & EVIDENCE -None

REVIEW OF THE DUNCAN FACTORS

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. Ms. Kuenzer-yes; Mr. Schigel-yes; Ms. Baron-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

B. Whether the variance is substantial. Mr. Schigel-no; Mr. Wetterman-no; Ms. Barron-no; Ms. Kuenzer-no; Mr. Kersten-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. Mr. Wetterman-no; Ms. Kuenzer-no; Ms. Barron-no; Mr. Schigel-no; Mr. Kersten-no.

D. Whether the variance will adversely affect the delivery of governmental services. Mr. Schigel-no; Ms. Kuenzer-no; Mr. Wetterman-no; Ms. Barron-no; Mr. Kersten-no.

- E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Ms. Barron-no; Mr. Schigel-no; Ms. Kuenzer-no; Mr. Wetterman-unknown; Mr. Kersten-no.
- F. Whether the property owner’s predicament can be obviated through some method other than a variance.** Mr. Schigel-yes; Mr. Kersten-yes; Ms. Barron-yes; Mr. Wetterman-yes; Ms. Kuenzer-yes.
- G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** Mr. Wetterman-yes; Ms. Kuenzer-no; Ms. Barron-yes; Mr. Schigel-yes; Mr. Kersten-yes.
- H. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Ms. Barron-no; Mr. Schigel-no; Ms. Kuenzer-no; Mr. Wetterman-no; Mr. Kersten-no.

Mr. Kersten asked if there was additional discussion or comments. None.

MOTION TO APPROVE VARIANCE REQUEST FOR 678 SUBSTATION ROAD

Motion: Mr. Schigel moved to approve permanent parcel # 001-02-A19-133 (678 Substation Road) for a five (5) foot variance from the free-standing garage to house. Ms. Barron seconds.

Discussion on the motion: Mr. Wetterman asked if it would be possible to add pending approval of Medina County Building Department since it a pole barn? Mr. Schigel said they are involved now because they put a STOP WORK ORDER on it. Mr. Wetterman agreed that was a good point.

Motion: Secretary Milanko stated the motion stays as read to approve and we have a second by Ms. Barron. **Roll Call:** Ms. Barron-yes; Ms. Kuenzer-yes; Mr. Schigel-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

Mr. Kersten stated your variance has been granted. He said any person that is adversely affected by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Medina County on the grounds that such decision was unreasonable or unlawful. They have 30 days from the date the decision letter is signed to appeal. Mr. Kersten stated to the applicant that it will be 30 days before your decision letter will be signed, so you have no variance for the next 30 days. When the decision letter is signed it will be mailed to you by certified mail and then there is another 30 days after that before you can start building.

PUBLIC COMMENT

Mr. Kersten asked if there was any public comment that doesn’t have to do with this case? No public comment.

ADDITIONAL BUSINESS

Secretary Milanko notified the board that no applications were submitted to the Zoning Inspector for May and stated the board will meet on May 4th to approve the minutes and sign the decision letter.

ANNOUNCEMENT OF NEXT MEETING DATE: Wednesday, May 4, 2022 @ 7:00 p.m.

ADDITIONAL DISCUSSION

Secretary Milanko asked if there was anyone in the audience that wanted to speak because Mr. Wetterman is asking. Mr. Wetterman said we have an approval letter to hand out. Secretary Milanko said he has to ask for it. A gentleman interjected something from the audience. Mr. Wetterman asked him to come up to the microphone. The gentleman asked, if he can apply for a non-conforming variance. Mr. Wetterman said

you probably could. Secretary Milanko said you have to state your name and address for the record. Mr. Kersten asked him to identify himself.

PUBLIC COMMENT

1. William Fonseca, Family Tavern, 2620 Plum Creek Parkway, Brunswick Hills approached the podium. Secretary Milanko informed the board that he is the applicant from last month and owner of The Family Tavern. Mr. Kersten asked Mr. Fonseca what his question is. Mr. Fonseca said, can I apply for a non-conforming variance? Mr. Kersten said not tonight. Mr. Fonseca started walking away to the door and Mr. Wetterman called him back. Mr. Kersten said let him go if he wants to go; he cannot apply tonight. Mr. Fonseca said I understand that I can't apply tonight, but my question is at the appropriate time, may I apply for a non-conforming variance? Mr. Wetterman said of course. Mr. Kersten asked the Zoning Inspector to please answer that question. Ms. Czyz said I am not so sure because we've never had that. She said my understanding is that there are only two types of variances; a "use" and an "area" variance. Mr. Fonseca said a non-conforming variance is a use variance; I looked it up. Ms. Czyz said I have a call into Planning Services so I will ask them. Mr. Kersten asked, after you find that out, can this gentleman come into your office so you can answer his question? Ms. Czyz said yes, or I can give him a call. Mr. Kersten told Mr. Fonseca we cannot answer that tonight, but she will find out the information and let you know.

Mr. Fonseca said I prefer to see Wes (Humphrey, Assistant Zoning Inspector) and said no offense. Mr. Fonseca said if I was directed in the wrong direction the first time, I prefer to see somebody else to get on the right track. He said look at what this has done to me. Mr. Kersten said you can go see whoever you want in the Zoning Department and meet with them to get your information, but we can't answer your question as board members. Mr. Fonseca said I appreciate your time and information.

Mr. Fonseca asked, do I to get a letter today? Isn't that why I'm here? Mr. Schigel said it will be mailed to you. Mr. Kersten said a letter for what? Ms. Kuenzer said the decision letter for the Family Tavern. Mr. Wetterman asked Mr. Fonseca if he wanted to pick up his decision letter tonight. Mr. Fonseca said no, it's good, I'll wait for it in the mail. Mr. Kersten said it will be mailed tomorrow morning. Mr. Wetterman said we have it here if he can have it. Mr. Kersten said I know, but then she has to go in the office and make copies. Mr. Fonseca said one of you guys told me last month there would be a meeting here to receive a letter, but I must have misunderstood. Mr. Kersten said if the secretary wants to go in the office and type something up that we gave it to you, we could do that. Secretary Milanko said I have a stamp that says "Brunswick Hills Township Certified Copy" that I can sign and date, and a received by date stamp that Mr. Fonseca would sign and I would have a board member witness it – if the board is agreeable. The board members had no objections. Mr. Kersten told Mr. Fonseca even if he gets his letter tonight, he still has to wait another 30 days because someone else could file an appeal. The signed letter was given to Mr. Fonseca.

MOTION TO ADJOURN

Mr. Schigel moved to adjourn. Ms. Kuenzer seconds. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 7:48 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Cliff Kersten, Chair

Date