

**Brunswick Hills Township Board of Zoning Appeals
Public Hearing Meeting Minutes
Township Hall
August 3, 2022**

Call Meeting to Order

Chairman, Cliff Kersten called the Brunswick Hills Township Board of Zoning Appeals public hearing meeting for August 3, 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; Mark Jeffers
- **Excused Absences:** Ann Barron and Gregg Timura
- **Alternate Board Members in Attendance:** Mark Jeffers sat as full board member
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector; Trustee Trica Murphy, Zoning Liaison; Linda Kuenzer, Secretary.

Chair Kersten stated a partial quorum of 4 board members are present. Mr. Kersten asked one member from each case being heard to step forward. He gave applicants the choice of being heard or waiting until there were 5 board members present and reschedule their case, however a tie vote is a No vote. All three applicants chose to have their case heard by the 4-member board. The Brunswick Hills Township acts within the regulations of Sec. 519 of the Ohio Revised Code.

APPROVAL OF MINUTES

1. Approval of the June 8, 2022 Special Meeting Minutes

Mr. Kersten asked if there were any corrections. Being none, Mr. Kersten asked for a motion to accept the minutes as submitted.

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

Mr. Kersten asked Mr. Wetterman to swear in Mrs. Czyz for the remainder of the meeting, which he did.

Mr. Kersten also stated to the audience that all comments will be directed to board members only.

NEW BUSINESS – PUBLIC HEARING

1. Robert Heazlit, 4767 Sleepy Hollow Road, PP#001-02C-17-007, Zoning RR, Area variance for proposed addition to the existing home per Sec. 402-4C Minimum Side Yard Width on Each Side.

TESTIMONY & EVIDENCE

(1.) Robert Heazlit, 4767 Sleepy Hollow Road, PP#001-02C-17-007 was sworn in and asked to present his case to the board. Mr. Kersten asked if he knew why he was here tonight. Mr. Heazlit said yes. Mr. Heazlit stated he inherited the property 2009 when his grandfather passed. The property has been in the family since 1944-45. The subdivision of the township bears their last name. 3 lots still have family living on them. His cousin Mark Davidson is one of them, he is here tonight, he would be the one most impacted by the variance. They are planning on renovating the house. The house was built in 1953. It has had a new septic tank put in, and work done to the basement, however now they have to do some major work to the house to be able to stay there, which they want to do as long as they can. They met with their architect, who was under the opinion they could be within 10 feet of the property line. They did the design based on that. So, between the living arrangement space and creating space for hobbies, and his recoding space, in order to make the plan look nice and miss the septic tank, since the Health Department stated where the

septic system had to go, they did not realize how far they had to stay from the septic tank. They discovered from the County they had to stay 10 ft from septic tank. The furthest protrusion on the plans was 11 feet from the property line which they thought was alright, however they found out it had to be 25 feet. The design for the renovation would have to be modified to avoid the septic tank which would severely limit the square footage that they need for the house. We would have to make a sizable investment to renovate a house that we would not be 100% happy with. We want to do this once and try to honor the township, it's look and respect the zoning and the township. So that's what we're trying to accomplish. They're hoping for a variance to do this. Everything we do will not affect the Davidsons, the township, or any government agencies. They're hoping for construction to start in the spring and move back into sometime in 2023.

QUESTIONS BY THE BOARD

Mr. Schigel asked from the front to the garage, what is the footage to the street? Mr. Heazlit replied 54 feet. Mr. Schigel's next question was for Mrs. Czyz. When he was reading all these non-conforming tasks, it says it should be 100 ft. Are they grandfathered in? Mrs. Czyz stated yes, so no variance required for that. Mr. Heazlit stated that pertaining to the non-conforming lots, when property lines were drawn, it was for equity between brothers and to fit other structures that were already there. At one time it was a 100 acre parcel with multiple homes. Actually, the original house that was there is about where his addition to the west will be. He is 18 ft from the eastern boundary which was grandfathered in. If Mark had a problem, they would go back to the drawing board or try to figure some other plan.

Mr. Wetterman asked if part of the original foundation was still in place where you're going to be building? Mr. Heazlit stated that there's nothing visible.

Mr. Jeffers asked if Mark was his neighbor? Mr. Heazlit replied yes. And you're (Mr. Davidson) is the owner of the property next door. Mr. Davidson replied yes and has no issue. Mr. Heazlit stated that everyone looks at the property as if there are no lines, they all work together. Respectful of each other of course.

Mr. Schigel questioned where the septic tank is? Mr. Heazlit approached the board to show them where the septic tank is. Given the location of the tank, that's why they had to design the addition the way they did, which in turn got them into trouble with the distance requiring the variance.

Mrs. Czyz stated that the storage units were built in 1993, so they were definitely grandfathered in.

Mr. Kersten asked the board if there were any major issues with this request?

Mr. Schigel asked if there were any other variances for the non-conforming lot? He said he knew sometimes with porches a variance was needed, but he couldn't find anything for this? Mrs. Czyz stated that porches can only extend 10 ft, so none is required for this because he is within that. The only variance that is required, as stated in your cover letter is because of the side distance, R-1 is 10 ft, RR is 25 ft and he does not meet that 25 ft.

Mr. Wetterman asked Mrs. Czyz if this area has always been an RR area? Her response was yes.

Mr. Wetterman also stated that the applicant, if approved tonight, would still have to go by Soil and Water and everything else including your septic tank, the Health Department may have a problem with it. Mr. Heazlit stated he has already been in touch with the Engineering Department and the County for what they require to obtain permits. There is also a plan where the waste water line will be leaving the house. Mr. Heazlit will be talking to the Health Department anyway. Mr. Wetterman asked if they had said anything about the size of the unit? Mr. Heazlit stated that when he designed the septic system, he designed

it with the house increase in mind, and the number of bedrooms, making 3-2 and then adding another bedroom, it will still be a 3-bedroom house, but we'll gain some bathrooms. And with 4 people it will be a welcome addition with daughters. Mr. Wetterman asked if the room behind the garage was going to be a family room? Mr. Heazlit answered yes.

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.** Mr. Jeffers-yes; Mr. Wetterman-yes; Mr. Schigel-yes; Mr. Kersten-yes.
- B. Whether the variance is substantial.** Mr. Schigel-no; Mr. Wetterman-no; Mr. Jeffers-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; Mr. Jeffers-no; Mr. Schigel-no; Mr. Kersten-no.
- D. Whether the variance will adversely affect the delivery of governmental services.** Mr. Jeffers-no; Mr. Wetterman-no; Mr. Schigel-no; Mr. Kersten-no.
- E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Mr. Schigel-no; Mr. Wetterman-no; Mr. Jeffers-no; Mr. Kersten-no.
- F. Whether the property owner's predicament can be obviated through some method other than a variance.** Mr. Wetterman-yes; Mr. Jeffers-yes; Mr. Schigel-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.** Mr. Jeffers-yes; Mr. Wetterman-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.** Mr. Schigel-no; Mr. Wetterman-no; Mr. Jeffers-no; Mr. Kersten-no.

MOTION TO APPROVE VARIANCE REQUEST FOR 4767 Sleepy Hollow Road

Motion: Mr. Schigel moved to approve variance request for 4767 Sleepy Hollow Road permanent parcel # 001-02-C17-007 for a fourteen (14) foot variance on the west side of the property. Mr. Jeffers-seconds. **Roll Call:** Mr. Wetterman-yes; Mr. Schigel-yes; Mr. Jeffers-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.

2. James & Patricia Segert, 4924 Orchard Drive, PP#001-02A-15-058 , Zoning C-N, area variance per Sec. 303-6D-2, Lot, Yard and Height requirements.

Mr. Kersten asked Mr. Wetterman to swear in the applicant.

TESTIMONY & EVIDENCE

(2). Patricia Segert, 4924 Orchard Drive , PP#001-02A-15-058 was sworn in and asked to present her case. Mrs. Segert stated they had been in their home for sixteen years. We had a house fire in February. The entire garage was demolished. Cause appeared to be electrical. Fire spread to the house. I've enclosed pictures in the back of the packet. What we would like to do is push the new detached garage further back from the house. Because we are the low spot of the street. From the pictures you can see we gather the entire streets water. We would like to raise the garage up about a foot and a half out of the water. We would like to build it "barn style" that would put the peak above the 15-foot limit to about 18 feet. If we leave it at the previous level, it only raises it a foot and a half, but with the extra foot and a half it would not flood anymore with the heavy rains. As I stated before, we are the gathering point for all the water. We have a sump pump in the yard, which was the only thing running in the garage that morning.

QUESTIONS BY THE BOARD

Mr. Schigel asked if the garage flooded prior? Mrs. Segert replied yes, the flood waters would get in. They also had a shed behind the garage that was there when they bought the house and the flood waters would run under the shed. With the freezing and thawing the garage floor was breaking apart. Water was constantly flooding the garage as well as the back yard. Mrs. Segert stated they had never done anything to channel the water away from the garage because they did not want to cause water issues for anyone downstream from them. The house at end of the street, at Helen and Substation, a split level, has water that floats into their basement all the time and they didn't want to push anymore water to them, respecting their neighbors.

Mr. Schigel asked if a "normal" garage or one like the previous one would have been chosen, they would still require a foot and a half variance just to get the garage up and out of the water, correct? Mrs. Segert answered yes; however, she never measured the old garage. Mrs. Segert also stated that the old garage had rafters that were used for storage. Ladders were required to put things in the rafters. My husband is afraid of heights so it was always difficult. In the new design we are planning a staircase to access the storage area instead of ladders.

Mr. Kersten asked the thickness of the new slab that will be poured? Mrs. Segert asked her architect and his response was 4 inches. Mr. Schigel asked if that would keep the water out of the garage? Mrs. Segert stated that the garage will be raised a foot and a half from the current grade and a ramp drive up and into the garage.

Mr. Wetterman asked how much of the surrounding area on the new garage will also be raised? Mrs. Segert replied they were going to push back the garage 10 feet from current location and make a gradual slope up to the garage. Mr. Wetterman wondered if it was just the front of the garage that would be at that level or were they going to push dirt around the whole area of the garage? Mrs. Segert asked her architect to help her with answering questions.

Mr. Wetterman swore in the architect for Mrs. Segert. **Mr. George Winkelman, 996 Endicott Drive, Akron, Ohio 44313.**

Mr. Endicott stated that it would be a bit of a restatement, but the property is flat and low. Heavy rains, there's water. So, if they could lift it up, out of the ground, the water would go around. Not just lift up but have earth built up, have some slope, not have a foot and a half of exposed foundation but put dirt up against it with grass and some landscaping to make it look nice.

Mr. Winkelman also stated that when they first drew up the plans it was just like the previous garage and then the roof issue would not have been a problem. But when they started to discuss the issue of the storage area and ladders, they decided on the “Gambel “roof design allowing for more storage space, which inadvertently caused the need for the variance. Mr. Wetterman asked how high it was from ground level to the top of the roof. Mr. Winkelman stated at the new grade it would be sixteen and a half (16 ½ feet).

Mr. Schigel stated they were asking for a 3-foot variance from the current grade. Mrs. Czyz stated they were also asking for some leeway due to settling and they may not even use the 3 feet.

Mr. Kersten asked if there were any more questions from the board. Upon being none, he called for public comment. Being none, we will go into the Duncan Factors.

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. Mr. Schigel-yes, Mr. Wetterman-yes, Mr. Jeffers-yes, Mr. Kersten-yes

B. Whether the variance is substantial. Mr. Wetterman-no, Mr. Schigel-no, Mr. Jeffers-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. Jeffers-no, Mr. Wetterman-no, Mr. Schigel-no, Mr. Kersten-no.

D. Whether the variance will adversely affect the delivery of governmental services. Mr. Wetterman-no, Mr. Schigel-no, Mr. Jeffers-no, Mr. Kersten-no.

E. Whether the property owner purchased the property with knowledge of the zoning restriction. Mr. Schigel-no, Mr. Jeffers-no, Mr. Wetterman-no, Mr. Kersten-no.

F. Whether the property owner’s predicament can be obviated through some method other than a variance. Mr. Jeffers-no, Mr. Wetterman-no, Mr. Schigel-no, Mr. Kersten-yes

G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance. Mr. Schigel-yes, M. Wetterman-yes, Mr. Jeffers-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. Mr. Jeffers-yes, Mr. Schigel-no, Mr. Wetterman-no, Mr. Kersten-no.

MOTION TO APPROVE VARIANCE REQUEST FOR 4924 ORCHARD DRIVE

Motion: Mr. Schigel moved to approve the variance for 4924 Orchard Drive, Brunswick, Ohio 44212, PP#001-02A-15-058, for a three (3) foot variance on height for the garage. Mr. Wetterman seconds. **Roll Call:** Mr. Wetterman-yes, Mr. Schigel-yes, Mr. Jeffers-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.

Mrs. Segert questioned where the decision letter would be mailed since they were in temporary housing. She will pick up the letter at the Zoning office and sign for it there.

3. Matthew Roberts/Church of Pentecost, 4430 Kingsbury Road, PP#001-02C-22-050 per Sec. 402-2B #4, Zoning RR. Addition of a modular classroom to the property. Conditionally Permitted Uses.

TESTIMONY & EVIDENCE

3. Matthew Roberts/Church of Pentecost, 4430 Kingsbury Road, PP#001-02C-22-050 (mailing address 14252 Hatfield Road, Rittman, Ohio 44270) was sworn in and asked to present his case.

Mr. Roberts would like to add a classroom unit for extra space. The classrooms are small. They do not have the funds to build a bigger building at this time. They were looking for another option, this became available so they purchased it since they had to get it when they could. Needs the OK to put it on the property.

QUESTIONS BY THE BOARD

Mr. Wetterman asked if this was going to be a permanent structure or similar to a mobile classroom like the schools would use? Mr. Roberts answered yes, a classroom. It was originally purchased from the Nordonia school system. Mr. Wetterman asked if it was finished inside and the answer was yes. He also asked if it had been approved by the Building Department. Mr. Roberts stated the Building Department instructed him to go through our Zoning first. Mr. Wetterman stated that it was very difficult to inspect a building that has already been drywalled. You can't see if the electric is done properly or if there was anything else wrong. If we approve the variance, the Building Department may not approve the building. Mr. Wetterman just wanted to caution him on that. Mr. Wetterman also stated that the plans did not show the distance the classroom would be from existing building. Mr. Roberts stated it would be fifteen (15) feet from the back of the church, but it probably would be further because he was going to put a driveway in front of it.

Mr. Wetterman stated the applicant was going to relocate another couple of accessory buildings? Mr. Roberts stated only one (1) accessory building, he was just going to slide it over because it is sitting where the classroom will be going. The building will still be used.

Mr. Schigel says it shows it will be one hundred and twelve (112) feet from the street and fifty (50) feet from any property line? Mr. Roberts replied yes. It's basically in the middle of the property behind the church.

Mr. Wetterman asked if there was already a sprinkler or fire suppression inside the building? Mr. Roberts said he doesn't believe so but that he has spoken with Matt Payne regarding that and Matt was going to get back to him. Mr. Wetterman said that churches are required to meet commercial standards on that. Mrs. Czyz stated that Fire Inspector Payne would be the one to go through. Mr. Roberts has spoken with Inspector Payne and stated he (Matt Payne) did not seem to have a problem with it. He already does the inspections on the church.

Mr. Wetterman noted that some dirt had been moved around already? Mr. Roberts said yes, he had some trees that had to be moved. He had the use of a piece of equipment and had to take advantage of that when he could.

Mr. Schigel asked if there were any pictures of the unit? Mr. Roberts said he'll find one, it was on his phone. Mr. Kersten asked if the classroom will be for teaching and preaching the gospel? Mr. Roberts stated yes. Mr. Schigel asked if the main service will be in the main building and the answer was yes. The classroom would be for Bible study and Sunday School.

Mr. Wetterman asked if the classroom would be on a foundation? Mr. Roberts stated he has to find out from the Building Department. Mr. Roberts showed a picture to the board. The classroom is now sitting on a frame on axles. The classroom is 28'x68' – 1904 square feet. Mrs. Czyz stated because it was over 200 square feet, he would automatically have to go to the Building Department before it could be used. Mrs. Czyz asked Mr. Roberts to please provide her with pictures of all four (4) sides and the inside of the classroom if approved tonight. Applicant said he would.

Mr. Wetterman commented he was not happy about the classroom being on axles or moveable. He felt that it could be referenced as a mobile home and you're not allowed to have students in a mobile home. He asked for clarification from Mrs. Czyz and she referred him to the Ohio Department of Mobile Homes. Mrs. Czyz stated that if it's being used as a classroom, it very well could be. That is why he needs to go to the Building Department. So, if he is granted the variance tonight, the very next point of contact should be the Medina County Building Department to see if he can even have that. Mr. Wetterman stated our approval would be subject to their approval? Mrs. Czyz stated you could make it as a conditionally permitted use. The applicant would obtain a letter stating the Building Departments decision, not only for the applicant's protection but the protection of the Township. The Township would receive the letter from the Building Department within 30 days, once received by the applicant.

BOARD DISCUSSION

The board discussed the topic of the classroom being on axles and being considered a mobile home or modular classroom. Mr. Roberts stated that it will always be used as a modular classroom and that the axles are used for transportation. Eventually it will be moved out when a building can be built. The board was concerned about granting a variance and then the unit being moved around the property. The board would prefer a permanent foundation. Mr. Roberts will do whatever the Building Department says he has to do. The question was asked if it was a temporary foundation, how long is temporary? Mr. Roberts stated that he was the one doing the work, he does it as quickly as he can.

The question was also asked about the classroom being ADA compliant. Mr. Roberts did not know the answer. The question of bathrooms and the septic system was also raised and Mr. Roberts stated there were no bathrooms in the classrooms, bathrooms are in the church building. Mrs. Czyz suggested that Mr. Roberts contact the Health Department on the septic system anyway just to be on the safe side. Mr. Schigel stated that this was only the first part of the process for Mr. Roberts and they were just trying to help him through it.

MOTION TO APPROVE VARIANCE REQUEST FOR 4430 KINGSBURY ROAD

Motion: Mr. Schigel moved to approve 4430 Kingsbury Road, Medina, Ohio, 44256, PP#001-02C-22-050 for a modular classroom on the property for the conditionally permitted use, contingent on the approval of the Medina County Building Department, and that within six (6) months the modular classroom will be permanently installed in place according to the submitted drawings. Mr. Jeffers seconds. **Roll call:** Mr. Wetterman-yes, with conditions, Mr. Schigel-yes, Mr. Jeffers- yes, Mr. Kersten-yes, with conditions.

Mr. Kersten stated the variance was approved with conditions. Conditions must be met. Mr. Roberts asked what would happen if for some unforeseen reason they weren't met in the time frame. The answer is he would have to come back. Decision letter will be signed on September 7th, 2022. The 6 months starts the date the decision letter is signed. Applicant still needs to contact the Building Department before any work can begin like pouring concrete. Mrs. Czyz stated that once she receives any letters from the Building Department she will forward to Mrs. Kuenzer for distribution to the board.

PUBLIC COMMENT

Mr. Kersten asked if there was any public comment? No public comment.

ADDITIONAL BUSINESS

Secretary Kuenzer notified the board that there are three new cases for September and distributed copies.

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

MOTION TO ADJOURN

Mr. Wetterman moved to adjourn. Mr. Schigel seconds. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 8:15 p.m.

Respectfully Submitted,

Linda Kuenzer, Zoning Secretary

Cliff Kersten, Chair

Date