

**Brunswick Hills Township Board of Zoning Appeals  
Public Hearing Meeting Minutes  
Township Hall  
September 7, 2022**

**Call Meeting to Order**

Chairman, Cliff Kersten called the Brunswick Hills Township Board of Zoning Appeals public hearing meeting for September 7, 2022 to order at 7:00 p.m.

Trustee Witthuhn swore in Gregg Timura as a full board member. A roll call of the board was executed. Special note to the board, next months meeting is cancelled. We will hold our meeting on October 12, 2022 instead of October 5, 2022. Any questions should be brought to either Cliff or Linda.

- **Board Members in Attendance:** Cliff Kersten; Chris Schigel; Ron Wetterman; Ann Barron; Gregg Timura
- **Alternate Board Members in Attendance:** Mark Jeffers
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector; Wes Humphrey, Assistant Zoning Inspector; Trustee John Witthuhn; Linda Kuenzer, Secretary.

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

**APPROVAL OF MINUTES**

**1. Approval of the August 3, 2022 Public Hearing 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. Schigel moved to accept the minutes written by the secretary. Mr. Wetterman seconds. **Roll call:** Mr. Schigel-yes; Mr. Timura-abstain; Mr. Wetterman-yes; Mrs. Barron – Abstain; Mr. Kersten-yes.

Mr. Kersten stated we would have three cases to be heard tonight. Three different applicants or witnesses will be heard. No talking amongst yourself. If someone does not like what's being said, there will be no yelling, no walking around. Everyone will have an opportunity to speak if they want to. Failure to obey these rules and you'll be escorted from the property.

Mr. Kersten swore in Mrs. Czyz and Mr. Humphrey for the remainder of the meeting.

**NEW BUSINESS – PUBLIC HEARING**

**1. Walter Kutolowski, 4981 Fallen Leaf Trail, PP#001-02A-19-257, Zoning R-1, Area variance for pool distance from house per Sec. 303-6-D-1, General Regulations of structures and Constructions-Accessory Building.**

Mr. Kersten swore in Mr. Kutolowski.

**TESTIMONY & EVIDENCE**

**(1). Walter Kutolowski, 4981 Fallen Leaf Trail, PP#001-02A-19-257 was sworn in** and asked to present his case to the board. Mr. Kutolowski stated he was both embarrassed and upset to be here. Embarrassed because they did not catch it sooner and upset with their contractor for putting them in this situation. They are private people and now everyone in the development knows their business. Two years ago, they wanted to put a pool in. They interviewed a handful of contractors and decided to go with a friend's contractor that put their pool in. (Nov.-Dec. 2021). They discussed what everyone's role would be. Mr. Kutolowski would

be responsible for HOA permits since he was on the HOA board and the contractor would be responsible for the rest. There were text messages back and forth regarding roles.

In June the Kutolowski's were having a large event at their home. At this point they were starting later than what they had planned on the pool. A gentleman from the pool company showed up and said they were going to start on the pool. Mrs. Kutolowski said to go ahead as planned.

Evelyn was never out, in hindsight. When Mr. Kutolowski got home, 50% of the pool had been dug. Mr. Kutolowski sent multiple text messages to the contractor stating the pool seemed kind of close. Contractor stated it was fine, they did pools in Brunswick Hills Township all the time and had dealt with Evelyn before. As the installation was finished, the contractor told Mr. Kutolowski to call the electrician. The electrician came out, gave an estimate, said all he (electrician) needed to go further was a copy of the permit from Brunswick Hills Township. Mr. Kutolowski sent a text message to the contractor, the contractor stated he did not do permits the homeowner does. Mr. Kutolowski sent copies of the previous text messages regarding the permits to the contractor at which time the contractor stated that he was doing three pools in the development and there must have been a mix-up. Contractor stated he would talk to Evelyn and get everything straight. A couple of days later he showed up and handed Mr. Kutolowski's daughter a copy of the variance application. At that point, everything goes south. Contractor pulled all his equipment, everything stopped, pools still not finished; this was in June. He backfilled what he could with dirt from pool which is just clay dirt, no gravel. This will all have to be remediated. Haven't heard from him since. He left all the pallets, all the garbage. The backyard is in complete disarray. No electrical, no concrete, the backyard is full of clay. I've called numerous times, left multiple text messages and voicemails and there has been no response as of right now. So, our fate is in your hands at this point.

#### **QUESTIONS BY THE BOARD**

Mr. Kersten asked if the applicant at any time before starting the pool, measured or checked with anyone on how far he had to be from his home? Mr. Kutolowski, stated no. Mr. Kersten said it was confusing because permits are usually showing on the property when there is construction. So, you never questioned not seeing a permit? Mr. Kutolowski stated Mr. Kersten was absolutely right. Everything came so quickly, he thought the contractor maybe had the permits, and this is where the embarrassment comes in. I should have known that, but he didn't.

Mr. Kersten asked what the pool was made out of. Mr. Kutolowski stated concrete bottom and steel sides. Not a fiberglass pool? Mr. Kutolowski stated no.

Mr. Wetterman asked if the applicant had a contract with the contractor? Mr. Kutolowski stated yes, a signed contract, but it was very blank. The contract stated what type of pool it was but nothing detailed on who was doing what. There was no comment on the contract regarding permits however the text messages do. Mr. Wetterman asked what the finished distance is off the house? Mr. Kutolowski stated seven (7) feet off the sunroom corner. Mr. Wetterman asked if the plans called for concrete between the pool and the house? Applicant stated yes.

Mr. Kersten stated applicant was asking for a five (5) foot variance? Applicant stated he was just asking for a variance to be excepted. Mr. Kersten stated that on the documents it stated a five (5) foot variance, however applicant would need more than five (5) feet. He would need a minimum of seven (7) feet. Mr. Kutolowski stated seven (7) to eight (8). Mrs. Barron stated that the survey showed seven (7) feet, maybe we should go with that.

Mr. Kersten asked if applicant has been able to get in touch with the contractor? Mr. Kutolowski stated no. Applicant stated the last contact he had was with Mrs. Czyz who tried to get in touch with contractor and she has not heard from him either.

Mr. Timura asked Mrs. Czyz for any comments. Mrs. Czyz stated that unfortunately it is the homeowners responsibility to obtain permits. If permits are required, ask the contractor for a copy of the permit, or call

Mrs. Czyz or Wes and they will provide a copy. When the property owner came in, there was no pool permit pulled. The County said there was no electrical permit pulled, no plumbing permit pulled, nothing was pulled.

Mr. Timura asked Mrs. Czyz what would be the negative of approving the variance? Mrs. Czyz responded that the County may ask the owner to dig it up to be able to inspect the electrical, the plumbing or the depth. Mr. Kutolowski stated that all that was still exposed. The plumbing and the electrical is exposed, everything is stopped. Mr. Timura asked if there has been any thought or estimate for damages? Mr. Kutolowski stated he couldn't even imagine the litigation that will happen. He hoped the contractor was bonded so that may help out with the damages. Timura asked if any of the neighbors expressed any concerns. Mr. Kutolowski stated his neighbors were in attendance and the neighbors had no concerns.

Mr. Wetterman stated he felt one concern would be future owners of the home. They may not appreciate it being so close. Mr. Kutolowski stated the pool could always be filled in and made level with the ground. Mr. Wetterman asked how big the pool is? Mr. Kutolowski responded it is 12'x20'. Mr. Wetterman stated if you filled in 3 feet of it, it would then be 12'x17', not a standard size. 16-18 is what I normally see. Mr. Kutolowski asked if he meant pushing it in? He stated yes that could be done but at that point he would just fill in the whole thing. They're not made to shrink them. Mr. Wetterman asked when the survey was done? Mr. Kutolowski said when he bought the house. 7 years ago.

Mr. Timura asked if there was another contractor to finish the pool? Mr. Kutolowski stated yes, if the variance is granted, I have an electrician, a new concrete company and a new contractor. The old contractor is not permitted to step foot on his property.

Mr. Schigel asked what type of concrete pad he was looking to put in? Mr. Kutolowski stated he just wanted to put a three (3) foot rig around it. Just a standard pool deck. Mr. Kersten committed that if you're putting a three (3) foot deck around it then you're closer to the house. Mr. Kutolowski asked if the pool constitutes the decking? Is it the pool and the decking? Mrs. Czyz stated it's to the waters edge. Concrete is not part of the variance.

Mrs. Barron asked about the safety of the pool. Mr. Kutolowski stated there is a six (6) foot fence all around. Mrs. Barron also referenced Section 303-6-G of the Zoning resolution regarding pools pertaining to doors and locks. Mr. Kutolowski stated they do have a lock, not a pad lock but they latch. Mrs. Barron asked if that was enough for the safety. Mrs. Czyz stated that he has a six (6) foot fence all around the property and the lock is a locking latch, not just a hook. Mr. Kutolowski stated that their latches lock from the inside.

Mr. Kersten stated that two things happened here, one the applicant trusted the contractor and two, did you or did you not know that it was your responsibility to obtain the permits? Mr. Kutolowski stated that he'd pulled permits before but he had put his faith in the contractor.

**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; Mrs. Barron-yes; Mr. Wetterman-yes; Mr. Kersten-yes; Mr. Timura-yes.

**B. Whether the variance is substantial.** Mr. Wetterman-yes; Mrs. Barron-no; Mr. Schigel-no; Mr. Timura-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. Timura-no; Mr. Wetterman-no; Mr. Schigel-no; Mr. Kersten-no; Mrs. Barron-no.

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

**E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Mrs. Barron-no; Mr. Wetterman-yes; Mr. Timura-no; Mr. Kersten-yes; Mr. Schigel-no.

**F. Whether the property owner’s predicament can be obviated through some method other than a variance.** Mr. Timura-yes; Mr. Wetterman-yes; Mr. Kersten-yes; Mrs. Barron-no; Mr. Schigel-no.

**G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** Mr. Wetterman-yes; Mr. Kersten-yes; Mr. Schigel-yes; Mrs. Barron-yes; Mr. Timura-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; Mrs. Barron-no; Mr. Wetterman-no; Mr. Timura-no; Mr. Kersten-no.

### **MOTION TO APPROVE VARIANCE REQUEST FOR 4981 Fallen Leaf Trail**

**Motion:** Mr. Schigel moved to approve variance request for 4981 Fallen Leaf Trail permanent parcel # 001-02-A19-257 for a variance of eight (8) feet from the house. Mrs. Barron-seconds. **Roll Call:** Mr. Timura-yes; Mr. Wetterman-no; Mrs. Barron-yes; Mr. Schigel-yes; Mr. Kersten-no.

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. Czyz reminded Mr. Kutolowski that before he can do anything he still has to come in and get a permit and that the permit cost will be double. Same thing when you’re finished with us, you still have to go to Medina and their fees are also double.

### **2. Edward Witt, 4922 Cessna Avenue, PP#001-02A-11-086 , Zoning R-1, area variance per Sec. 303-6D-2, Lot, Yard and Height requirements.**

Mr. Kersten swore in Mr. Witt.

### **TESTIMONY & EVIDENCE**

**(2). Edward Witt, 4922 Cessna Avenue, PP#001-02A-11-086 was sworn in** and asked to present his case. Mr. Witt stated he was in the planning stages of adding an accessory building, a detached garage and would like it to match the existing architecture and roof line. He’s requesting a variance for roof height in excess of fifteen (15) feet.

### **QUESTIONS BY THE BOARD**

Mr. Schigel stated that when they make their statement, they (the board) have to be specific, so the applicant is looking for an eight and a half (8½) foot variance. Mr. Witt agreed.

Mr. Timura asked what the current roof height was. Mr. Witt stated twenty-three and a half (23 ½) feet. Mr. Timura also asked if any of the neighbors had an issue with the request. Mr. Witt stated the neighbors did not have any issues. Mr. Timura asked Mrs. Czyz if there were any concerns of having a building over 15 feet high. Mrs. Czyz said she had no concerns. It would be different if the development called for a lower roof line, however this would complement the development.

Mrs. Barron asked if the development had an HOA (Home Owners Association), Mr. Witt answered yes.

Mr. Kersten called for a Point of Order. An HOA is not recognized, and has no say so. If the president of the HOA wants to come and testify, they can testify for himself but not on a case. HOA's are not recognized.

Mr. Witt stated that this was step one. If approved his next step would be with the HOA.

Mr. Kersten stated that if the variance is granted and the HOA doesn't want it to happen, you can not use us against them. Mr. Witt stated he understood.

Mr. Wetterman asked if it was a concrete pad between the existing attached garage and the detached garage? Mr. Witt stated yes. Mr. Wetterman asked how far away from the attached will the detached garage be? Mr. Witt replied forty (40) feet. Mr. Wetterman complimented Mr. Witt on the décor of the garage and how it matches the house.

Mr. Schigel asked if garage will be a two-story garage? Mr. Witt stated the second floor would be for storage. Mr. Wetterman asked if there would be stairs? Mr. Witt stated maybe stairs or maybe just pull-down stairs.

Mrs. Barron asked what the distance was from the back of the property line. Mrs. Czyz stated that the one angle, from the house to rear yard is 150.54 feet, the other is 2-300 feet to the back property line. Well within. Mr. Timura stated from the back corner of garage to the side neighbor on Substation looks like it's 15 or 18 feet. Do you know specifically what the distance is? Mr. Witt stated it's 18 feet.

Mr. Wetterman stated he understood that Mr. Witt had purchased an additional plot of land to accommodate this? Mr. Witt replied yes. He had a very cooperative neighbor and was able to purchase the property. He had the opportunity to do that to add space to make it fit better. Mr. Wetterman asked if the neighbor faces Substation? Mr. Witt replied correct.

Mr. Timura stated that he believed there were other detached garages in the development that are over 15 feet. Mr. Witt said he believed so although he did not measure them.

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. Wetterman-yes; Mr. Timura-yes; Mrs. Barron-yes; Mr. Schigel-yes; Mr. Kersten-yes

**B. Whether the variance is substantial.** Mr. Schigel-no; Mrs. Barron-no; Mr. Wetterman-no; Mr. Timura-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. Kersten-no; Mr. Schigel-no; Mr. Timura-no; Mr. Wetterman-no; Mrs. Barron-no.

**D. Whether the variance will adversely affect the delivery of governmental services.** Mrs. Barron-no; Mr. Wetterman-no; Mr. Timura-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-yes, based on the fact he purchased additional property; Mrs. Barron-no; Mr. Timura-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. Schigel-yes; Mrs. Barron-yes; Mr. Timura-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. Kersten-yes; Mr. Schigel-yes, Mrs. Barron-yes; Mr. Timura-yes; Mr. Wetterman-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.** Mrs. Barron-no; Mr. Wetterman-no; Mr. Schigel-no; Mr. Timura-no; Mr. Kersten-no.

**MOTION TO APPROVE VARIANCE REQUEST FOR 4922 CESSNA AVENUE**

**Motion:** Mr. Schigel moved to approve the variance for 4922 Cessna Avenue, Brunswick Hills Township, Ohio 44212, PP#001-02A-11-086, for an eight and a half (8 ½) foot variance on the accessory building height. Mr. Timura seconds. **Roll Call:** Mrs. Barron-yes; Mr. Schigel-yes; Mr. Timura-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.

**3. Gregg Jacobsen /Cuyahoga Valley Church, 1226 Substation Road, PP#001-02A-27-005, 001-02A-27-006, 001-02A-27-007 per Sec. 303-6H, Zoning R-1. Proposed fence height exceeds the required 6 feet.**

**TESTIMONY & EVIDENCE**

**3. Donald Highlander, 3221 Broadleaf Way, Brunswick, Ohio 44212 (architect and member of the church) PP#001-02A-27-005, 001-02A-27-006, 001-02A-27-0070)** was sworn in and asked to present his case.

Mr. Highlander stated that Gregg Jacobsen, executive Pastor of the church was in attendance with him. Mr. Highlander is the architect and a member of the Cuyahoga Valley Church. The church has been on the property since the 1950’s. First Baptist Church and Cuyahoga Valley Church merged and relaunched about 15 months ago and the church is doing well. However, the parking lot needs replaced. In the design of this project, they have worked with Medina County and complied to all the storm water management criteria and received approved drawings. He has been working with Mrs. Czyz on a proper design. In discussion with the neighbors and according to the Zoning resolution, there needs to be a five (5) foot screen. One of

the requests from the neighbors is that a portion of the fence would need a variance from six (6) feet to eight (8) feet. The reason for the variance request is to give the neighbors more privacy and a little more security. The current parking area is sixty-six (66) or more spaces on the south end, adding additional parking at the west end where the neighbors are behind them. So, they would like the board to consider their request.

**QUESTIONS BY THE BOARD**

Mr. Schigel asked if they were required to build a fence? Mr. Highlander stated that according to the Brunswick Hills Zoning they are required to put something up at least five (5) feet. In speaking with Mrs. Czyz, they thought about landscaping, however if landscaping is used it must be 100% opaque within a year. They did consider landscaping but felt the better way to go to prevent headlights from cars parking there would be a fence. Mr. Highlander stated that the eight (8) foot section of the fence was around a detention area that is an approximate four (4) foot depressed area that fills with water and is slowly released. There is a drainage easement behind the property that the detention area ties in to that meets Medina County approval. So, what they are asking for is the additional height variance.

Mr. Schigel asked if the transition from the 6 to 8 feet will be a taper or an abrupt change. Mr. Highlander stated that there was not a plan for a taper unless it was part of the variance.

Mr. Timura asked if there was a fence currently on the property now? Mr. Highlander stated that it is a little hard to see but there was a wooden fence to the west and the north west corner. There is a wooden fence on that property and then next to them which sets back from the property line but it is not the churches fence. They are not proposing a fence where the neighbors have a fence. They are trying to meet the guidelines of the Township.

Mr. Timura asked why wouldn't they just make it all six (6) feet high? Mr. Highlander stated they could, however the neighbors around the detention area requested that they please provide an eight (8) foot fence, giving them more privacy and security. So, in trying to honor the neighbors request and be a good neighbor and honor that request.

Mr. Wetterman asked was the fence going to be wooden or vinyl? Mr. Highlander stated a white vinyl fence.

Mr. Timura asked when you say privacy what do you mean by privacy? Mr. Highlander said the neighbors were concerned that if a car was pulling into the parking lot with headlights on, the lights would show up on their (neighbors) property and that an eight (8) foot fence would provide more security and privacy. They decided to continue the eight-foot fence all the way around in case a small child wandered onto the property, with a higher fence it would not be easy to get over.

Mrs. Czyz said to help answer some of Mr. Timura's questions, the property to the west where the eight (8) foot fence would be, there will be parking. According to the Zoning resolution, it does not allow lights to be intrusive. So having an eight-foot fence would keep the lights from being intrusive. Also, the detention basin requires some sort of safety barrier. Brunswick Hills is adamant about the safety of its residents, so the fence would provide that. The County will probably also require some type of safety because makes a corner and an eight-foot fence would solve that. On the south side the same issue with the lights would be a problem there so the eight-foot fence would also solve that. Mr. Timura asked why then not make the whole fence eight (8) feet high? Mrs. Czyz stated that the major security source, the detention basin is water.

Mr. Wetterman asked what direction the detention basin is running from? North to south or east to west? Drainage from parking lot has an outlet source on the west end, connecting to a county easement through a 12" drainage pipe that was mandated by Storm Water Management. Water will not drain onto adjacent properties or into the culverts on Substation.

Mr. Wetterman asked if the parking lot will have a drain? Mr. Highlander said yes, there will be catch basins that will connect to storm water. Dan Wilholt reviewed everything.

Mr. Timura asked how far the fence was from the parking lot - space? Mr. Highlander stated that at the rear it was twenty-five (25) feet from the property line, on the west. On the other side, 19.7' from the grass.

Mr. Timura also stated he still did not understand why if an eight-foot fence is good, then why not do the whole thing at 8 feet. Mr. Highlander stated that the code permits 6 feet. Other areas, like to the north, have shrubbery and tall trees, there are some buffers. The eight-foot on the south side is primarily because of the detention area.

**Gregg Jacobson-Administrative Pastor at Cuyahoga Valley Church, 1226 Substation Road, Brunswick, Ohio 44212** was sworn in by Mr. Kersten. Pastor Jacobson stated that they wanted to meet the code when they were working with Mrs. Czyz which is for a five (5) foot fence all the way around. A couple of the neighbors requested the higher fence. So, to accommodate the neighbors they went with the higher fence. The five (5) foot fence meets all the requirements.

Mr. Wetterman asked is any of the neighbors had a problem with the eight (8) foot fence? Mr. Highlander stated not that they are aware of. They had tried to keep everyone informed by meetings and drawings, trying to do everything right from the beginning.

Mr. Schigel asked what would stop a neighbor from complaining about the eight (8) foot fence being in one area, why don't they put it in this area? Why not eight feet all around? Mr. Jacobson stated that some people prefer no fence. Mrs. Czyz stated that if someone had a truck, trucks sit high. An eight (8) foot fence will help to keep the lights out as well.

**Marisella Leone, 4884 Stag Thicket Lane, Brunswick, Ohio 44212** was sworn in by Mr. Kersten. Ms. Leone stated she is the one mostly affected because she has no trees to block anything. The trees have died due to the water issue. She appreciates how helpful they have been regarding the variance. She did not ask for it, they approached her. There was concern over the lighting, safety. A five (5) foot fence can be jumped over, maybe even a six (6) foot fence. But an eight (8) foot fence not so easy. Her property grades down, making the church higher. From the church parking lot, you can see into her backyard and her back porch. An eight (8) foot fence gives her more privacy and security and again with no trees there is nothing to block anything. She also hopes that the new parking lot will hopefully provide a solution with the water issue.

**Michael Zuber, 1246 Substation Road, Brunswick, Ohio 44212** was sworn in by Mr. Kersten. Mr. Zuber said he is the neighbor to the south of the church parking lot. He does not have a problem with the fence. He stated that at one point the church had thought about landscaping but they had decided against it. Landscaping is not cost effective. A fence is much easier to care for. He and his wife have lived next door to the church for twenty-six (26) years and have always had a good repour with the church. Any improvement the church does will only improve their (Zuber's) property as well. His property sits higher than the parking lot and tapers back. The other issue, pertaining to the lights shining into the neighbor's property is the LED lights that the newer cars now have. The fence would help with that problem as well. Whatever is decided, they do not have a problem with the fence at all.

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; Mrs. Barron-yes; Mr. Kersten-yes; Mr. Timura-yes; Mr. Wetterman-yes



**B. Whether the variance is substantial.** Mrs. Barron-no; Mr. Timura-no; Mr. Wetterman-no; Mr. Schigel-no; 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. Timura-no; Mr. Wetterman-no; Mrs. Barron-no; Mr. Schigel-no; Mr. Kersten-no.

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

**E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Mr. Schigel-no; Mr. Wetterman-no; Mr. Timura-no; Mrs. Barron-no; Mr. Kersten-no.

**F. Whether the property owner’s predicament can be obviated through some method other than a variance.** Mr. Wetterman-yes; Mrs. Barron-no; Mr. Schigel-yes; Mr. Timura-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. Kersten-yes; Mr. Schigel-yes; Mr. Timura-yes; Mrs. Barron-yes; Mr. Wetterman-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.** Mrs. Barron-no; Mr. Timura-yes; Mr. Schigel-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

Mr. Schigel asked for a clarifying question; what is the length of the eight (8) foot fence on the north side and on the west side? Mr. Highlander stated in the application it is limited to one hundred eleven (111) feet on the west property line and one hundred fourteen (114) feet along the south property line. Nothing stated from the southwest corner of the property.

### **MOTION TO APPROVE VARIANCE REQUEST FOR 1226 SUBSTATION ROAD**

**Motion:** Mr. Schigel moved to approve 1226 Substation Road, Brunswick, Ohio, 44212, PP#001-02A-27-005; #001-02A-27-006; #001-02A-27-007 for a variance of two (2) feet on 111 feet on the west and 114 feet on the south fence to make it an eight (8) foot fence. Mr. Wetterman seconds.

**Roll call:** Mrs. Barron-yes; Mr. Schigel-yes, Mr. Timura- no, Mr. Wetterman-yes; Mr. Kersten-yes.

Mr. Kersten stated your variance has been granted. Usually, we sign decision letters in 30 days, however we will be running longer. Mr. Kersten stated to the applicant that a decision letter will be drawn up and sent by certified mail. After that 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.

Mrs. Czyz stated that when they receive their decision letter to make sure they come and see her for their fence permit.

Mr. Kersten **motioned** to permit the Zoning Secretary, Linda Kuenzer, to sign the decision letters when the chair and the vice chair are not available so the letters can be signed and mailed on time. This is for one

time only. Mr. Schigel seconds. **Roll Call:** Mrs. Barron-yes; Mr. Schigel-yes; Mr. Timura-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

Mr. Kersten said the secretary could email the decision letters to the board and if they had a problem they could let the secretary know.

**4. Approval of Decision Letter for 4767 Sleepy Hollow Variance Request**  
**Decision Letter for Robert Heazlit & Angelina Scali, 4767 Sleepy Hollow Road Variance Request.**

Upon no corrections or edits, the Chair called for a motion to approve the decision letter.

**Motion to Approve the Decision Letter**

**Motion:** Mr. Wetterman moved to approve the decision letter as submitted for 4767 Sleepy Hollow Road; Mr. Schigel seconds.

**Roll Call:** Mrs. Barron-abstain; Mr. Timura-abstain; Mr. Schigel-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

**5. Approval of Decision Letter for 4924 Orchard Drive Variance Request**  
**Decision Letter for James & Patricia Segert, 4924 Orchard Drive Variance Request**

Upon no corrections or edits, the Chair called for a motion to approve the decision letter.

**Motion to Approve the Decision Letter**

**Motion:** Mr. Kersten moved to approve the decision letter as submitted for 4924 Orchard Drive; Mr. Schigel seconds.

**Roll Call:** Mr. Timura-abstain; Mr. Schigel-yes; Mrs. Barron-abstain; Mr. Wetterman-yes; Mr. Kersten-yes.

**6. Approval of Decision Letter for 4430 Kingsbury Road Conditionally Permitted Use**  
**Decision Letter for Matthew Roberts/Church of the Pentecost, 4430 Kingsbury Road Conditionally Permitted Use**

Upon no corrections or edits, the Chair called for a motion to approve the decision letter.

**Motion:** Mr. Schigel made a motion to accept the decision letter; Mr. Wetterman seconds.

**Roll Call:** Mrs. Barron-abstain; Mr. Timura-abstain; Mr. Schigel-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

**PUBLIC COMMENT**

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

**ADDITIONAL BUSINESS**

Secretary Kuenzer notified the board that there is one new case for October and distributed copies. Mrs. Czyz stated that Mr. Humphrey will be at the next meeting as the case for October is his case.

Mr. Jeffers stated he must recuse himself from the board for the October meeting as the new case is his.

**ANNOUNCEMENT OF NEXT MEETING DATE:** Wednesday, October 12, 2022 @ 7:00 p.m.

**MOTION TO ADJOURN**

Mr. Kersten moved to adjourn. Mr. Wetterman seconds. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 8:40 p.m.

Respectfully Submitted,

Linda Kuenzer, Zoning Secretary

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Cliff Kersten, Chair

Date

Approved October 12, 2022