

**Brunswick Hills Township Board of Zoning Appeals  
Public Hearing Meeting Minutes  
Township Hall  
January 4, 2023**

**Call Meeting to Order**

Chairman, Chris Schigel called the Brunswick Hills Township Board of Zoning Appeals Public Hearing meeting for January 4, 2023 to order at 7:16 p.m. A roll call of the board was executed.

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

Chair Schigel stated a quorum is present. Meeting has been properly advertised and is being taped for the record. Before any vote, a yes, simple majority vote with a quorum is in favor of the applicant. A no, simple majority vote, will deny the applicant's request. The Brunswick Hills Township Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code.

**APPROVAL OF MINUTES**

**1. November 2, 2022 Regular Meeting Minutes**

Mr. Schigel stated we have the minutes to approve from November 2, 2022.

**Motion:** Upon no edits or corrections, Mr. Wetterman moved to approve the minutes as written for the November 2, 2022 meeting. Mr. Timura seconds. **Roll Call:** Ms. Barron-yes; Mr. Wetterman-yes; Mr. Timura-yes; Mr. Schigel-yes; Mr. Kersten-yes.

**2. December 14, 2022 Special Meeting Minutes**

Mr. Schigel stated we also have a set of minutes from the Special Meeting on December 14, 2022. Any questions/thoughts on those minutes? No edits or changes to the minutes.

**Motion:** Mr. Wetterman moved to approve the minutes from the Special Meeting on December 14, 2022. Mr. Schigel seconds. **Roll Call:** Mr. Timura-yes; Mr. Kersten-yes; Ms. Barron-yes; Mr. Schigel-abstain; Mr. Wetterman-yes

Mr. Schigel stated we do have a case for tonight and asked if any if the board members need to be recused from the application on this case due to some type of relationship? Having no one, Mr. Schigel stated that as we do our case for tonight, that all comments or concerns be directed to the board. If there is anything that you want to say, please wait and you will have a chance to be heard.

Mr. Schigel then swore in Zoning Inspector Evelyn Czyz and Assistant Zoning Inspector Wes Humphrey.

**NEW BUSINESS-PUBLIC HEARING**

**1. Denise & Ed Becka, 4724 Center Road, PP#001-02C-03-004, Zoning R-1. Use variance for chain link fence per Sec.303-6-H-4C, Fences of woven wire chain link construction are prohibited in front yards.**

Mr. Schigel swore in Mr. and Mrs. Becka

**TESTIMONY & EVIDENCE**

(1). Ed & Denise Becka, 4724 Center Road, PP#001-02C-03-004 was sworn in and asked to present their case to the board. Per the letter attached to the application, we wanted to install a chain link fence (September, 2022). We got our Zoning certificate, a company to install the fence and then had the fence installed. In November, 2022 when Wes called, he said that the Zoning Department, that he had made a mistake when they permitted the chain link fence that they had already installed and that we were going to have to get a variance for the chain link fence, so here we are. We're asking to keep the fence we had installed, spent the money for. We went through everything legal. We went through the proper channels. We obviously ran into a snag somewhere. So, we're asking to keep it.

Mr. Schigel said he saw the official document here approving your certificate. Mr. Kersten asked when they entered the Zoning office, did they specify a chain link fence? The answer was yes. Again, Mr. Kersten asked if it was specified at the time the permit was asked for. Again, the answer was yes. Mrs. Becka replied that it's stated on the application, 4(four) foot chain link fence. Mr. Kersten said he saw that on the application but wondered what the conversation was before the application was made out. Mrs. Becka stated yes, chain link. It's always been chain link. We didn't know we weren't allowed to have one.

Mr. Kersten stated he was at the property. It was nice property and questioned if the fence was along the back of the property next door or just the front portion? Mr. Humphrey stated it's from the HOA's fence coming forward ending in front of the house. Mr. Kersten asked if it was the chain link facing Rt. 303? Mr. Humphrey stated it's the chain link fence on the west side of the property in front of the house. Mr. Kersten asked if the applicant should loose, does the whole fence have to come down or just what faces Rt. 303? Mr. Humphrey stated the whole fence.

Mr. Timura asked what prompted them to put the fence there in the first place? Mr. Becka stated the neighbors kept encroaching. We're trying to rewild the field over there. Create a barrier and not have to mow it. There's a lot of trees there. I spent over \$1000.00 planting trees over there last summer. We were just going to let it grow out. There's a flower bed in there that surrounds that whole corner. HOA landscapers kept coming around the corner and mowing so we put a fence up on the backside of their (HOAs') flower bed. If they don't like the look, they can plant flowers to hide it. Landscapers kept coming around mowing five (5) feet of my property. I asked him to stop, he said he'd stop but he didn't. So I put up a couple six (6) foot tree stakes and they just mowed around them. So instead of arguing with the people we just spent the money and put the fence up. The fence goes nowhere. It's just an L-shape fence that serve no purpose except to keep them over there and keep my property intact. Mr. Timura asked who Mr. Becka talked to? Mr. Becka stated the landscaper who lives right there. Mr. Timura asked if Mr. Becka spoke with the HOA? Mr. Becka said no, he wasn't going to argue with those people. Mr. Becka stated he took the landscaper at his word. He also went to the City of Brunswick who, told him to put a bunch of rocks there so he couldn't mow it, but Mr. Becka does not want to do that he's trying to make it look nice. That was the advice from Brunswick city to deal with their people. They went with the chain link because the split rail fences after time were twisted, or needed painted. They are getting older and didn't want to deal with all the maintenance. I put up the chain link, it's good for sixty (60) years. So that's a little background as to why we did what we did. However, we didn't know we were stepping on anyone's toes or we would have found another option. Apparently, the neighbors know the code better than anyone else.

Mr. Schigel asked if it would be correct to assume you were not aware of any Zoning restrictions putting up that fence? Mr. and Mrs. Becka stated no...if they would have known they would have gone with something that would have not caused all these issues.

Mr. Kersten stated that the way it stands, you did everything right and Brunswick Hills did everything wrong. Mr. Becka stated he didn't feel everything wrong. We followed the rules. Mr. Kersten asked who told them they had to take the fence down? Did you get a letter or something? Mr. Becka stated no. A neighbor called the City of Brunswick, the city called the Township and the Township called them and here we are. I really don't know who or what the complaint would be. It really doesn't interfere with them doing anything on them. Mr. Kersten said he agreed with Mr. Becka. He walked the property. He looked at their fence, yours starts at the end of their fence. He did check it out. Mr. Becka said he wished everyone would come and look at it.

Mr. Timura asked if the variance is not granted, since it was a mistake made by the Township, is it their responsibility to take it down? Their time, their expense, their cost to take the fence down because of a mistake that the Township made? Mr. Humphrey stated that would be a legal issue and the Trustees would have to handle that. Mr. Schigel stated yes, it would be a legal issue.

Mr. Kersten stated yes, it's a legal issue, but we have to decide tonight if it's going to be a legal issue or not. I'm not worried about it being a legal issue, that's up to the Township. These people did everything right. A mistake was made over here, now we have to decide who's going to pay for all this. Are they going to pay or is the Township going to pay.

Mrs. Becka stated she was told it was the Township's responsibility to take the fence down and replace it.

Mrs. Barron stated that it was a four (4) foot fence, chain link, L-shaped but questioned approximately how long it is? Mr. Becka stated the fence was fifty (50) feet by forty (40) feet. Forty (40) feet across Rt. 303. Mrs. Barron asked what the dimensions of the lot is? Mr. Becka stated he believed it was 222 feet in the front by 439 (?) feet going back. It is a 2-acre lot.

Mr. Humphrey stated the lot size was 398.33 feet by 222.9 feet. Mrs. Barron stated she was just trying to visualize the scope of the project. Mr. Becka stated he had to go a little longer across the front to keep them from coming around the fence.

Mr. Timura asked if anyone had complained. Mrs. Becka said yes, that's why we're here. Mr. Humphrey stated yes. A lady (he believes her name was Judy) complained and quoted the chain link fence. This was not the first time the HOA has complained about the natural state of the property. I have pictures from 8/23/21, because animals would live in the high brush possibly going into the HOA at night or something. Mrs. Becka stated they complained because they were letting the property return to the natural state.

Mr. Kersten stated that the HOA can complain all they want. This board does not recognize HOA's. Maybe the Township recognizes HOA's but this board does not. The reason is because if you get a President out there and he says "my people", we cannot question the people. We don't know what those people say so we don't recognize them.

Mrs. Czyz stated that that patch of land along the fence can be left in a rural state, nothing can be done about it. It can be left as a pollinator area for Monarch butterflies, bees, worms, mice. The Department of Agriculture and the Ohi Department of Natural Resources will even pay landowners to keep part of their land in the raw or natural state.

Mr. Wetterman stated that the Becka's are Township, not part of the HOA, so the HOA should not have a voice in it. Mrs. Becka stated that would be like them trying to tell the people in the HOA what to do with their yard. Mr. Wetterman stated he understand that the Township has a regulation about chain link fences, but it's up, it's paid for and it was done legally. Mr. Kersten said he agreed with everything Mr. Wetterman had said.

Mr. Czyz stated however it wasn't done legally. Our Zoning Resolution states no chain link fences. On page 23, Sec. 303-6-H-4C. Mr. Schigel stated yes, it does say that, however it was put up due to a mistake by Zoning. Mr. Kersten stated as far as this couple, they put the fence up legally, they obtained a permit.

Mr. Humphrey asked if anyone had any other questions for him. No other questions.

Mr. Schigel called for any other questions or testimony from the audience, Having none, the board will review the Duncan Factors for the Use Variance.

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

- A. Whether uses permitted in the district may be reasonably established on the property and whether they are economically viable on the property in question without the variance.** Mr. Wetterman-Abstain; Mr. Timura-no; Mr. Kersten-no; Ms. Barron-yes; Mr. Schigel-yes.
- B. Whether the variance is the minimum variance which will afford relief to the property owner.** Mr. Kersten-yes; Mr. Timura-yes; Mr. Wetterman-yes; Mr. Schigel-yes; Ms. Barron-yes
- C. Whether the essential character of the neighborhood will be substantially altered or adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** Ms. Barron-no; Mr. Schigel-no; Mr. Wetterman-no; Mr. Timura-no; Mr. Kersten-no.
- D. 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. Wetterman-no; Mr. Kersten-no; Ms. Barron-yes; Mr. Schigel-yes; Mr. Timura-yes.
- E. Whether the hardship condition was created by actions of the applicant.** Mr. Kersten-no; Mr. Wetterman-no; Mr. Schigel-no; Mr. Timura-no; Ms. Barron-no.
- F. 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; Ms. Barron-yes; Mr. Timura-yes.
- G. Whether the use requested is similar in character to the permitted uses in the subject district.** Mr. Schigel-no; Ms. Barron-no; Mr. Wetterman-no; Mr. Timura-no; Mr. Kersten-no.
- H. Whether the subject property is adequate to meet the needs and requirements of the proposed use.** Ms. Barron-yes; Mr. Kersten-yes; Mr. Wetterman-yes; Mr. Timura-yes; Mr. Schigel-yes.

Before the vote, Mr. Schigel stated that any person adversely affected by a 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 was signed to appeal.

### **MOTION FOR USE VARIANCE FOR 4724 CENTER ROAD – PP# 001-02C-03-004**

**Motion:** Mr. Wetterman made the motion to approve the application for the use variance of the applicant for a chain link fence for PP#001-02C-03-004. Mr. Kersten seconds.

**Roll call:** Mr. Timura-yes; Mr. Kersten-yes; Mr. Wetterman-yes; Ms. Barron-yes; Mr. Schigel-yes.

Mr. Schigel stated that in 30 days, at the next meeting, a decision letter will be signed and then sent to them via certified mail. We normally tell the applicant not to build until they receive the letter, however that doesn't apply in this case. Mr. Schigel thanked the Becka's and wished them well.

**ADDITIONAL BUSINESS**

Mrs. Czyz stated that she sent an email to Rob Henwood and Denise Tesla from Planning Services. At the September training they had stated they would be offering training every other month. That has not happened. So, I have asked for a list of topics and dates and specifically, that our boards would like to have training on the Duncan Factors. Understanding the difference on Area Variances and Use Variances because it can be confusing. She wanted the board to know she's done her due diligence in following up with the training. Last year in February they said the same thing. Didn't hear anything, didn't hear anything. I sent emails then as well but heard nothing. Then finally in September they had one. She wanted the board to know that she's staying on top of it. Mr. Timura asked if we were having trouble obtaining trouble from them are there any other alternatives for training? Partnering with other townships can be done, however the training is still put on by the Planning Commission. Mr. Schigel asked Mrs. Czyz to keep them informed on training on the Duncan Factors because there is a lot of verbiage in there that can be confusing.

**PUBLIC COMMENT:** None

**ANNOUNCEMENT OF NEXT MEETING DATE:**

**Motion:** Mr. Kersten moved to cancel the February 1, 2023 meeting and to allow the Zoning Secretary, Linda Kuenzer to sign and mail the decision letter on the boards behave. Mr. Wetterman seconds. **Roll call:** Mr. Timura-yes; Mr. Kersten-yes; Mr. Wetterman-yes; Mr. Schigel-yes; Ms. Barron-yes.

**Next meeting date would be Wednesday, March 1, 2023 @ 7:00 p.m. if needed.**

**MOTION TO ADJOURN**

Mr. Kersten moved to adjourn the meeting. Mr. Timura seconds. Roll Call: All in favor to adjourn.

Meeting officially adjourned at 7:59 p.m.

Respectfully Submitted,  
Linda Kuenzer, Zoning Secretary

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Chris Schigel, Chair

Date