

RECORD OF PROCEEDINGS  
TOWNSHIP BOARD OF ZONING APPEALS—REGULAR

Minutes of

Meeting

Adam Hall

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10148

11455 Washington Street

June 8, 2021

Held

~~BZA-2021-14v~~

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MEMBERS PRESENT: ROBERT FORD, DOUG HOGAN, DAVID PARKER, BRIAN STEWART, LEWIS TOMSIC, MICHAEL VARLEY, ERIC FORD

MEMBER ABSENT: NONE

MEMBERS HEARING

THE CASE: Hogan, Parker, Stewart, Tomsic, M. Varley

DOCUMENTS

IN CASE FILE: See Case File, the case file is included as part of the official record.. Including the Auburn Township Zoning Resolution

BZA-2021-14v—an appeal requesting a variance, submitted by Thomas Brill, from the Auburn Township Zoning Resolution, Article 3.01(g) Fences and Landscaping...fences...shall not exceed four (4) feet in height in any front yard or exceed six (6) feet in height in any side or rear yard for an existing/proposed eight (8) foot high fence located at 11100 Carriage Hill Drive, Auburn Township Ohio 44023 in an R-2 zoning district.

The meeting proceeded to the next item on the agenda, which was BZA-2021-14v—an appeal requesting a variance, submitted by Thomas Brill, from the Auburn Township Zoning Resolution, Article 3.01(g) Fences and Landscaping ... fences ... shall not exceed four (4') feet in height in any front yard or exceed six (6) feet in height in any side or rear yard, for an existing/proposed eight (8) foot high fence located at 11100 Carriage Hill Drive, Auburn Township Ohio 44023 in an R-2 zoning district.

Mr. R. Ford recused himself from the hearing, because he potentially knew a party possibly involved in the case. It was noted Dr. Michael Varley, first alternate, would hear the case.

Mr. Hogan verified that everyone was sworn in that intended on testifying.

The applicant was asked to present his case.

Tom Brill introduced himself to the Board of Appeals. He explained that he was issued a permit to install a 6' high fence in the rear area of his house. He further explained that because of the slopes of his property and that he was not aware how the Zoning Inspector measures the height of fences, there is an area of the already installed fence that exceeds the 6' high zoning restriction.

Mr. Brill also explained that he is proposing to add fencing on the south property line and also because of the elevations of his property, he will run into the same issues regarding property elevations.

Mr. Brill indicated that his intent, when he installed his fence, was not to violate zoning.

Mr. Brill also explained that he built a 42' x 30' pole barn and when doing so the area, where this building, was located was reworked. He explained that there had been an existing retaining wall that had been removed.

He also commented that the current fencing, that he installed himself, is 86' from the north property line, and 11' from the pole building located on his property.

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Mr. Brill distributed, to the BZA members, a presentation with pictures of the improvements that were being made to his property. The pictures showed the project elevations at different vantage points. Also included in the packet of information were letters from contiguous property owners that were not opposed to the variance request.

It was noted that Mr. Brill's submittal would be entered into the permanent case file for BZA-2021-14v.

Mr. Brill proceeded with his presentation by explaining what several of the pictures depicted.

Mr. Brill explained that Figure 1 was the elevation from the north looking south. He explained that this picture was showing the downward slope and also the slope down from east to west on his property. Mr. Brill further explained that Figure 1a was the same picture, but without the arrows that were shown on Figure 1; both pictures showed the 6' high fence that has already been installed.

Mr. Brill also indicated that he will be installing an above ground swimming pool this summer, for which he has already obtained a zoning permit. He further elaborated that Figure 2 would show how much of the swimming pool and patio could be seen from the cul-de-sac which is located at the end of Carriage Hill Drive.

Mr. Brill continued by explaining that Figure 3 will show where the swimming pool will be to the neighbor's house near the cul-de-sac and that a taller fence will offer the Brills more privacy from the cul-de-sac.

Mr. Brill commented that his south side neighbor (Rob Pealer) has been supportive of his project. It was also noted that a letter was received from Mr. Pealer and the content of the letter had some stipulations; one of which was that the proposed fence on Mr. Pealer's property line (the south property line) needs to be buried deeper in the ground and in virgin soil.

Mr. Brill indicated that he would be getting a compactor for the soil.

Mr. Brill summarized that he needs the height restriction variance for fencing because of the sloping and elevations on his property and that it is so important that he has more privacy on his property especially for the swimming pool.

Mr. Hogan indicated, in his opinion, that he felt an 8' fence was not needed since the sloping did not appear to be severe enough on Mr. Brill's property.

Mr. Brill indicated that he wanted more privacy. Mr. Hogan again indicated that he felt this situation did not have the same elevation issue that had been previously shown in his neighbor's BZA case.

Mr. Hogan asked if there was an HOA associated with the subdivision. It was indicated that there was not one.

Auburn Township Volunteer Fire Chief John Phillips indicated that the Auburn Township Volunteer Fire Department does not have any issue with the proposal.

Frank Kitko, Auburn Township Zoning Inspector, indicated that he did not have an issue with the proposed project.

Mr. Hogan asked for comments from the contiguous property owners.

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William Sevel, 11096 Carriage Hill Drive, indicated that his the property is to the north of Mr. Brill's property. Mr. Sevel expressed concerns with the current and proposed project. He testified that some of his concerns were the current 6' fence is currently 8'. He also explained that the current fence could end up being 10' since the posts that the fencing is attached to are 10' and lattice could be attached to the posts. He also indicated that the fence is unsightly and that there are gaps between the fence and the ground.

He also indicated that Mr. Brill removed trees from the Brill property and it is now an eyesore; that there is silt fencing still around the constructed accessory building and the fence is an eye sore. He indicated that the applicant should have had prior approval and that he is currently in violation; and that he disregarded and tried to circumvent the system. Mr. Sevel also indicated that there is a concern regarding water runoff from the Brill's property to his property. He also expressed concern with the security camera on the Brill's property.

Claudia Sevel, 11096 Carriage Hill Drive, indicated that she had also had concerns regarding the security camera set up, the 8' high fence, and the silt fence that is around the dirt pile on the Brill's property.

Mr. Hogan indicated that this BZA meeting was not the place to express these issues that do not pertain to the case on the table. Mr. Hogan indicated that the Sevals could look into civil recourse if they wanted.

Mr. Hogan commented that water is going to flow, based on the elevations of the properties.

Mr. Kitko indicated that water runs downhill naturally because of grade of the property. Mr. Kitko also indicated that the installation of the fence itself would not create more water flow.

It was explained that the silt fence around the accessory building had a purpose during construction. It was also noted that the silt fence around the mound of dirt has been in place for a month. Mr. Brill noted that the installed fence would not affect the drainage since it was 86' away from the Sevel's property.

Mr. Hogan asked if Mr. Brill planned on putting lattice on the top of the current fencing where the posts are higher than the body of the fencing. Mr. Brill indicated that no lattice would be installed, that the posts were decorative.

It was again noted that there were letters from contiguous property owners who were not opposed to Mr. Brill's proposed project. There was also a letter from Rob Pealer, the contiguous property owner to the south, at 11104 Carriage Hill, that indicated that "I have no issue with the proposed fence". The letter also indicated that the fence "meet a certain criteria", that it does not exceed 8' from grade, consisting of a mound of 2' and a fence of 6', that the post be into virgin compacted soil for stability of wind load and frost heaving and the fence will match the other fencing being installed on the opposite side of the property."

**Motion by Brian Stewart to grant BZA-2021-14v—an appeal requesting a variance, submitted by Thomas Brill, from the Auburn Township Zoning Resolution, Article 3.01(g) Fences and Landscaping...fences...shall not exceed four (4') feet in height in any front yard or exceed six (6) feet in height in any side or rear yard for an existing/proposed eight (8) foot high fence located at 11100 Carriage Hill Drive, Auburn Township Ohio 44023 in an R-2 zoning district. The motion was seconded by Lewis Tomsic. Vote: Tomsic, yes; Varley, no; Parker, yes; Stewart, yes; and Hogan, no. The motion passed.**

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The appeal process for BZA-2021-14v was explained, to all in attendance, the decision from tonight's meeting can be appealed within 30 days from the date that the minutes are approved. It was announced that the minutes for the hearing tonight will be approved on July 6, 2021, at the BZA meeting.

**Motion by Brian Stewart to approve the minutes for BZA-2021-05v, April 13, 2021, meeting, for Miller and Sons. The motion was seconded by David Parker. Vote: Varley, yes; R. Ford, yes; Parker, yes; Stewart, yes; and Hogan, yes. The motion passed.**

**Motion by Brian Stewart to approve the minutes for BZA-2021-05v, May 11, 2021, meeting, for Miller and Sons. The motion was seconded by David Parker. Vote: Varley, yes; R. Ford, yes; Parker, yes; Stewart, yes; and Hogan, yes. The motion passed.**

**Motion by Doug Hogan to approve the Findings of Facts for BZA-2021-05v. The motion was seconded by David Parker. Vote: Varley, yes; R. Ford, yes; Parker, yes; Stewart, yes; and Hogan, yes. The motion passed.**

**Motion by Brian Stewart to approve the minutes for BZA-2021-09c, from the May 11, 2021 meeting for Crash Champions. The motion was seconded by Lewis Tomsic. Vote: Tomsic, yes; R. Ford, yes; Parker, yes; Stewart, yes; and Hogan, yes. The motion passed.**

**Motion by Brian Stewart to approve the minutes for BZA-2021-10v, May 11, 2021, meeting, for Elaine Lufkin. The motion was seconded by David Parker. Vote: Tomsic, yes; R. Ford, yes; Parker, yes; Stewart, yes; and Hogan, yes. The motion passed.**

**Motion by Brian Stewart to approve the Findings of Facts for BZA-2021-10v. The motion was seconded by David Parker. Vote: Tomsic, yes; R. Ford, yes; Parker, yes; Stewart, yes; and Hogan, yes. The motion passed.**

Under Miscellaneous, the next meeting will be July 6, 2021, at 7:00 PM, at the Auburn Township Administration Building. This meeting will be to approve minutes in a timely fashion.

**Motion by Robert Ford to adjourn the meeting. The motion was seconded by David Parker. Vote: Tomsic, yes; R. Ford, yes; Parker, yes; Stewart, yes; and Hogan, yes. The motion passed.**

The meeting was adjourned.

Minutes submitted by

Minutes Approved on:

  
Jane Hardy, BZA Secretary

July 6, 2021

  
Doug Hogan, Chairman