RECORD OF PROCEEDINGS

Minutes of AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR Meeting

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

Auburn Township Administration Building
11010 Washington Street

Held June 21, 2022 1 20

~~BZA-2022-05v~~

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

MEMBER ABSENT: BEN TIMMONS

MEMBERS HEARING THE CASE: Hogan, Tomsic, Stewart, Parker, Ford

CASE FILE: The case file is included as part of the official record, and also includes the Auburn Township Zoning Resolution

BZA-2022-05v--an appeal requesting a variance, submitted by Premier Custom Builders/Michael McDonald for Robert and Jessica Ricard, from the Auburn Township Zoning Resolution, Article 3.06(i)(1) Buildings, Structures and Uses Prohibited within a Riparian Setback, Construction: There shall be no buildings, structures, uses or related soil disturbing activities of any kind …, for a proposed dwelling located at 10915 Stella Lane, Auburn Township OH 44023 in the R-2 zoning district.

The meeting was called to order by Chairman Doug Hogan.

The Pledge of Allegiance was recited.

Mr. Hogan swore everyone in who was going to testify.

Chairman Hogan read the opening statement as follows:

The BZA is a quasi-judicial body and as such, its role is similar to a judge in a court case. The Board will hear evidence and testimony that is factual and will make decisions based upon the facts, which are presented, the rules as set forth in the resolution and principles of law.

The Ohio Revised Code Section 519.13 requires that any Township that has adopted a zoning resolution, which Auburn Township has, appoint a five-member Board of Zoning Appeals and 2 alternate members. This Board is empowered to hear and decide appeals and to authorize variances from the strict terms of the zoning resolution where the variance will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the resolution will result in an unnecessary hardship or practical difficulties. The BZA is also permitted to authorize variances where the spirit and intent of zoning is upheld and substantial justice will be done.

With this being stated, the Board's proceedings are relatively informal; but, in order to conduct an orderly meeting and allow all parties of interest, mainly contiguous property owners, or their legal representatives, the opportunity to present the evidence, certain procedures need to be followed:

All interested parties must be sworn in. The applicant will be asked to present evidence to support the requested appeal, the Board will ask questions, and then all interested parties (contiguous property owners) may present evidence concerning the appeal and ask questions regarding previously presented evidence.

It is the applicant's burden to produce evidence to support the application. The Board will not make the applicant's case for them. In order to prepare appropriate meeting minutes, each person, who speaks, will need to state, for the record, his/her full name and address. The meeting may be continued by either the applicant or the Board.

The Board must base their decisions upon facts and not on expressions or concerns or non-factual matters. The action of the BZA does not become final until 30 days, after the date of the meeting that the minutes were approved.

As noted on the agenda, Mr. Hogan confirmed that the official record for this hearing (BZA-2022-05v) are the minutes recorded by the Board of Zoning Appeals Secretary and that the case file and zoning resolution are part of the official record.

Brad Camposi from Premier Custom Homes, 49 West Orange, Chagrin Falls introduced himself to the Board. Mr. Camposi thanked the Board for arranging and taking time to schedule a special meeting to hear this case.

Mr. Camposi explain the history of "how the Ricards [the property owner] got to this point". He explained that the Ricards were looking for a lot in a subdivision that they could build their "forever home". He also commented that the Ricards found this lot, which was the last lot in the Fox Crossings Subdivision. Mr. Camposi explained that both he and the Ricards walked the lot and the Ricards fell in love with this property.

Mr. Camposi explained that the lot was approved for septic when the property was platted for the subdivision. He noted that there are some limitations to the lot. He also commented that Premier Custom Homes has sent the site plan to Geauga Soil and Water; and they have received approval from them after some "give and take" negotiations.

Mr. Camposi further explained that there are wetlands located on the property, and they are Category 2 wetlands; which means with riparian requirements there is an additional setback of fifty feet (50'). Mr. Camposi commented that the wetlands were shown on the original plat of the subdivision. He further explained that Premier did hire a wetlands specialist and had a new delineation completed on the property. The delineation confirmed that the wetlands were Category 2, and this information is reflected on the current site plan.

Mr. Camposi explained that he felt the current proposed location of the dwelling is the best option for what he feels the riparian is meant to accomplish and protect. He explained that the property is flat in the front of the property by Stella Lane and the property elevation increased toward the rear of the property by the hillside. He commented that by locating the dwelling where it is now proposed will allow Premier to avoid clearing out more trees than necessary. Mr. Camposi explained that he feels the trees will help keep the water away from the proposed dwelling.

Mr. Camposi also explained that the purpose and intent of wetlands and riparian is to reduce flood impact, and he felt that if the hillside becomes steeper it will shed more water.

Brian Stewart commented that the dwelling could be pushed back toward the south property line to comply with zoning and it would keep the dwelling out of the riparian setback. Mr. Camposi commented and explained that doing that will create more water around the house.

Mr. Ricard commented that he would like to put a yard in about 40' behind the house once the lot is cleared for the structure.

David Masic, 10929 Stella Lane, S/L 14, commented that he and the Ricards share a property line. He explained that when the Masic's built their home, they only cleared up to the back hill and they had a massive water issue caused by water runoff from the hill, and as a result they had to add swales all around their house to divert the water away from the house.

Mr. Camposi also commented that for the Ricard's to build the house further back, in his opinion, it would be a financial hardship. He explained that with the additional swale work, it will add $40,000-$60,000 to the cost of the house.

Mr. Hogan noted that there is a reason that this was the last lot in the development and there was documented wetlands on it. Mr. Hogan asked if there was due diligence properly done on the property before the Ricards purchased the property and if any of these issues were addressed during the due diligence process. The long setback for the house was going to be expensive. Mr. Camposi explained that he was not trying to change the approved plan, that the house was to be located 150' off the road, but he noted that the lot had been approved on the original plat for the subdivision.

Mr. Ford asked if there would be a swale on the right side of the driveway, back to the stream so there would be no effect on the stream.

A discussion took place.

Mr. Kitko commented that the City of Akron owns the property to the South of this lot. It was noted that the hill on the rear of the property goes up and than plateaus behind the Ricards property.

Mr. Stewart asked about the riparian issue with the driveway going through the stream. It was noted that a temporary Nationwide permit from the Army Corp of Engineers has been obtained; and the Army Corp of Engineer's permit will allow a culvert to be used for the crossing of the stream.

There were no further comments or questions.

Motion by Lew Tomsic to grant BZA-2022-05v--an appeal requesting a variance, submitted by Premier Custom Builders/Michael McDonald for Robert and Jessica Ricard, from the Auburn Township Zoning Resolution, Article 3.06(i)(1) Buildings, Structures and Uses Prohibited within a Riparian Setback, Construction: There shall be no buildings, structures, uses or related soil disturbing activities of any kind …, for a proposed dwelling located at 10915 Stella Lane, Auburn Township OH 44023 in the R-2 zoning district.

The motion was seconded by Doug Hogan. Vote: Ford, yes; Stewart, yes; Tomsic, yes; Parker, yes; and Hogan, yes. The motion was granted.

Mr. Hogan explained the appeal process and also explained that the decision of the BZA can be appealed within thirty (30) days after the minutes are approved; so if they move forward with the project they are doing so at their own risk.

It was noted that the minutes for tonight's hearing will be approved on July 12, 2022.

Mr. Camposi thanked the Board.

The meeting continued to the next item on the agenda.

Mr. Hogan commented that there is an update to the Zoning Resolution for all members. He suggested that all members update their resolution.

The Board members read the meeting minutes from May 10, 2022.

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Motion by Doug Hogan to approve the minutes from May 10, 2022. The motion was seconded by Michael Varley. Vote: Ford, yes; Stewart, yes; Tomsic, yes; Varley, yes; and Hogan, yes. The motion was granted.

The next meeting July 12, 2022. There will be a case and packets will be ready next week.

Motion by Doug Hogan to adjourn the meeting. The motion was seconded by Lewis Tomsic. Vote: Ford, yes; Varley, yes; Tomsic, yes; Stewart, yes; and Hogan, yes. The motion passed.

The meeting was adjourned.

Minutes submitted by

Jane Hardy, BZA Secretary

Minutes Approved on:

July 12, 2022

Doug Hogan, Chairman