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 July 12, 2022 1 20

~~BZA-2022-06v~~

MEMBERS PRESENT: DOUG HOGAN, BRIAN STEWART, MICHAEL VARLEY, BEN TIMMONS

MEMBER ABSENT: LEWIS TOMSIC, DAVID PARKER, ROBERT FORD

MEMBERS HEARING THE CASE: Hogan, Timmons, Stewart, Varley

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

BZA-2022-06v--an appeal requesting a variance, submitted by Pearce Projects LLC/Charles Pearce for Michael and Lori Dodge from the Auburn Township Zoning Resolution, Schedule 4.03(k); Residential District Schedule, Minimum Yard Depth, Front--65' required, 55' proposed, for an addition located at 10994 Taylor May Road, 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-2022-06v) are the minutes recorded by the Board of Zoning Appeals Secretary and that the case file and the Auburn Township Zoning Resolution are part of the official record.

The applicant was asked to present the case.

Charles Pearce introduced himself to the Board members and explained that he is the contractor for this project. He indicated that the property owners are requesting a variance for a project that he started for Michael and Lori Dodge. He indicated that when the application was submitted for this project that he was under the understanding that the project complied with zoning because he was issued a zoning permit. After the project was started it was brought to his attention, by the Zoning Inspector, that there was an issue with the front setback for the addition. It was noted that the applicant never called for the required stake out inspection and the information that was provided on the zoning application was not accurate.

Mr. Pearce, at that point, re-measured the distance for the front set back and he discovered that the structure's new addition, which had already been started with block and framing, was not compliant with the required 65' front setback and was off by approximately ten feet (10'). He did indicate that he was confused about where the 65', for the front setback, is measured from and that is why he is here tonight asking for a variance.

Mr. Hogan asked Frank Kitko, Auburn Township's Zoning Inspector, how he measures the front setback. Mr. Kitko explained that the front setback for a dwelling is 65' from the road-right of way; the road right-a-way is 30' from the centerline of the road. The front setback of 65' from the edge of ROW. Mr. Kitko further explained that he also verifies this with the location of the telephone poles, which are usually a foot to 1.5 feet in from the edge of the ROW.

Mr. Pearce indicated that when this was brought to his attention, he immediately stopped construction, until this situation is resolved.

It was noted that a survey has been ordered but that the earliest they could get it scheduled was 6 to 8 weeks out.

Mr. Hogan commented that there is a possibility that the house itself is also in violation.

The property owners indicated that they did receive a clear title to the dwelling when they purchased it, that the house is actually only 5 years old. They also indicated that a title search was done.

Brian Stewart asked if the ROW is 15' off the edge.

Mr. Stewart indicated that the survey should be done and provided, so the Board would have exact measurements. Mr. Stewart indicated that a 10' variance is significant and the Board should be basing their decision on exact numbers and information.

Mr. Hogan asked if a special meeting could be scheduled once the survey was completed. It was noted that if there is an available quorum, a special meeting could potentially be held.

Mr. Kitko did note that they did not call for a "stake-out" inspection, which the error would have been caught then.

The Dodge's were in agreement that the Board should wait for a survey.

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Motion by Doug Hogan to recess BZA-2022-06v. The motion was seconded by Brian Stewart. Vote: Stewart, yes; Timmons, yes; Varley, yes; and Hogan, yes. The motion was granted.

The Dodges and Mr. Pearce left the meeting.

The Board members read the meeting minutes from June 12, 2022, BZA-2022-05v, Ricard/Premier Customer Homes.

Motion by Doug Hogan to approve the minutes from June 12, 2022. The motion was seconded by Michael Varley. Vote: Varley, yes; Timmons, yes; Stewart, yes; and Hogan, yes. The motion passed.

Motion by Brian Stewart to approve the Findings of Facts from June 12, 2022 meeting for Premier Custom Homes/the Ricards for BZA-2022-05v. The motion was seconded by Michael Varley. Vote: Varley, yes; Timmons, yes; Stewart, yes; and Hogan, yes. The motion passed.

The next meeting August 9, 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: Varley, yes; Timmons, yes; Stewart, yes; and Hogan, yes. The motion passed.

The meeting was adjourned.

Minutes submitted by

Jane Hardy

Jane Hardy, BZA Secretary

Minutes Approved on:

August 16, 2022

Doug Hogan, Chairman