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 January 9, 2024 1

Held BZA-2023-10v 20

MEMBERS PRESENT: BOB FORD, MICHAEL VARLEY, LEWIS TOMSIC, BRIAN STEWART

MEMBERS ABSENT: DOUG HOGAN, BEN TIMMONS, DAVID PARKER

MEMBERS HEARING THE CASE: Stewart, Tomsic, Varley, Ford

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

BZA-2023-10v--an appeal requesting a variance, submitted by James Zydek for DMZ Properties, from the Auburn Township Zoning Resolution, Article 4.07(c)(2): Building Setback Requirements, Rear Yards, 50' required, 25' proposed for a proposed accessory building located at 9821 Washington Street, Auburn Township, Ohio 44023 in a B-1 zoning district.

The meeting was called to order by Vice Chairman, Robert Ford at 7:00 PM.

It was noted for the record that: pending on the agenda was **BZA-2023-08v**--an appeal requesting a variance, submitted by **T & B Development LLC, Bruno Frate,** from the Auburn Township Zoning Resolution, **Article 4A.07(a)(1) Building Setback Requirements, Front Yard**--required 75'; grandfathered at 58' 3-3/4", proposed 46', for a proposed addition located at **17720 Ravenna Road**, Auburn Township, Ohio 44023 in a **B-1A** zoning district.

It was also noted that **BZA-2023-09v**--an appeal requesting a variance, submitted by **Rick and Vicki Donley** from the Auburn Township Zoning Resolution, **Article 4.03(a) Districts and Main Uses**: Lots and structures shall be used in compliance with Schedule 4.03(k) Residential District Schedule and 4.03(a) Districts and Main Uses: Only the permitted main uses defined…and specified on the Schedule…shall be permitted… for a landscape business and proposed Christmas Tree Farm located on **PPN 01-001960**, **Messenger Road**, Auburn Township, Ohio 44023 in an **R-2** zoning district, will be recessed and will be heard at the February 13, 2024.

This was requested by the applicant and the applicant's attorney, Chris Horn.

Moving on with the meeting.

Roll call was taken with the following members present: Lewis Tomsic, Michael Varley, Robert Ford and Brian Stewart.

Members absent were: David Parker, Doug Hogan, and Ben Timmons.

Fire Chief, John Phillips; Frank Kitko, Auburn Township Zoning Inspector and Jane Hardy, in her capacity as BZA Secretary, were also present for the Township.

The Pledge of Allegiance was recited.

Mr. Ford swore everyone in who was planning on testifying during the variance request hearing.

Mr. Ford also verified that everyone in the audience had signed in.

Mr. Ford again explained that the only case being heard tonight was **BZA-2023-10v--an appeal requesting a variance, submitted by James Zydek for DMZ Properties, from the Auburn Township Zoning Resolution, Article 4.07(c)(2): Building Setback Requirements, Rear Yards, 50' required, 25' proposed for a proposed accessory building located at 9821 Washington Street, Auburn Township, Ohio 44023 in a B-1 zoning district.**

Mr. Ford read the following opening statement:

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.

The applicant was asked to present his case.

Jim Zydek introduced himself to the members of the Board of Appeals.

Mr. Zydek explained that he owns a business at 9821 Washington Street, across from the Hitching Post and needs more storage space for the business. He explained that he wants to build an accessory building in the rear of his property and because of the logistics of his lot and the size of the building and to have easy access to the proposed building for storage purposes, he needs to move the building back farther on the lot, which will encroach in the required rear building setback. He further indicated that there is not enough space for side entry into the building for the customers' motorhomes, RV's, and other seasonal vehicles all stored on the back lot.

Mr. Zydeck indicated that he currently stores a lot of RV's and rents out space for that. He further explained that the building will be used for storage for the business. He indicated that the current business will use part of the building for motor cycle storage. A discussion took place regarding the use of the building and the current outside self-storage.

Mr. Stewart commented on, after visiting the location, the amount of privacy in the back of Mr. Zydek's property because of the earthen mound.

Greg Zydek indicated that the smaller building on the property is currently used for winter storage of motorcycles.

Lewis Tomsic asked if the previous business at this location had been the tire showroom and the limo business. It was noted that it was. A discussion took place regarding the cat removal from those businesses.

Fire Chief John Phillips indicated that he did not have any issues with the proposed project.

Frank Kitko, Auburn Township Zoning Inspector indicated that he did not have any issues with the project either.

Mr. Kitko did indicate that when the proposed commercial building's prints are submitted by Mr. Zydek for the project, that he will check to see how the building is sub-sectioned off on the inside to verify that the building will be used for personal storage rather than rented as self-storage.

Mr. Kitko also explained that if it is self-storage, that a conditional use certificate would then need to be obtained for the project.

Mr. Zydek also commented that there will be security cameras and security lights on the building. He also indicated that the lights will not be in the back of the building.

Mr. Stewart asked if there will be heat in the building. Mr. Zydek indicated that there would not be any heat in the building. Mr. Stewart indicated that it would be cold storage.

Mr. Tomsic asked the Fire Chief if the mound in the rear of the building would inhibit the Fire Department from fighting a fire. The Chief indicated that the Fire Department would be able to get around it.

Frank Kitko also explained that the back fifty (50') of all the residential lots on Indian Hills drive are in the B-1 zoning district.

There were no contiguous property owners present at the meeting.

Mr. Stewart asked if the back property line had been surveyed. Mr. Zydek indicated that it had been surveyed.

There was no further comments or questions.

Mr. Ford explained to Mr. Zydek that there were only four members of the Board of Appeals present at tonight's meeting and if the vote is taken tonight and it is a "tie vote", a tie vote is a "no" vote. Mr. Zydek was offered the opportunity to wait until there were five (5) members present to take the vote. Mr. Zydek testified that he wanted to continue with the vote.

Motion by Brian Stewart to grant BZA-2023-10v--an appeal requesting a variance, submitted by James Zydek for DMZ Properties, from the Auburn Township Zoning Resolution, Article 4.07(c)(2): Building Setback Requirements, Rear Yards, 50' required, 25' proposed for a proposed accessory building located at 9821 Washington Street, Auburn Township, Ohio 44023 in a B-1 zoning district.

The motion was seconded by Lewis Tomsic.

Vote: Varley, yes; Tomsic, yes; Stewart, yes; and Ford, yes. The motion was approved.

Mr. Ford again explained to the applicant that the decision from tonight's meeting will be effective thirty (30) days from the date that the minutes are approved and signed. Mr. Ford indicated that the minutes from tonight's hearing will be signed at the BZA meeting on February 13, 2024.

It was also commented that Mr. Zydek could proceed at his own risk.

Mr. Zydek indicated that he understood.

The meeting continued to the Organizational Meeting.

Motion by Brian Stewart to nominate Robert Ford to be the 2024 Chairman of the Auburn Township Board of Zoning Appeals. Mr. Ford indicated that he would accept the nomination. **The motion was seconded by Lewis Tomsic. Vote: Varley, yes; Tomsic, yes; Stewart, yes; and Ford, abstain. The motion was approved.**

Even though Doug Hogan was not present at the meeting, it was noted that he would accept a nomination to serve as Vice-Chairman and Mr. Hogan wanted to be sure that no other member wanted to serve as Vice-Chairman.

Motion by Brian Stewart to nominate Doug Hogan to be the 2024 Vice-Chairman of the Auburn Township Board of Zoning Appeals. The motion was seconded by Lewis Tomsic. Vote: Varley, yes; Tomsic, yes; Stewart, yes; and Ford, yes. The motion was approved.

Motion by Robert Ford to reappoint Jane Hardy as the 2024 Secretary to the Auburn Township Board of Zoning Appeals. The motion was seconded by Brian Stewart. Vote: Varley, yes; Tomsic, yes; Stewart, yes; and Ford, yes. The motion was approved.

The Board of Appeals will meet on the second Tuesday of each month, if there is a case to hear.

The next meeting will be February 13, 2024. There will be two cases at the February 13, 2024, meeting.

Motion by Michael Varley to adjourn the meeting. The motion was seconded by Brian Stewart. Vote: Varley, yes; Tomsic, yes; Stewart, yes; and Ford, yes. The motion was approved.

The meeting was adjourned.

Minutes submitted by

Jane Hardy

Jane Hardy, BZA Secretary

Minutes Approved on:

February 13, 2024

Robert Ford, Vice Chairman