RECORD OF PROCEEDINGS

Minutes of AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR Meeting

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

Held Auburn Township Administration Building 11010 Washington Street August 8, 2023 1 20

~~BZA-2023-06v~~

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

MEMBER ABSENT: BEN TIMMONS

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

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

BZA-2023-06v--an appeal requesting a variance, submitted by Chad Sparks from the Auburn Township Zoning Resolution, Article 5.02(a)(2)a. Detached accessory buildings shall be located in side or rear yards at least fifteen feet (15') from any lot line…" for a proposed accessory building with a five foot (5') setback, located at 10186 Widgeon Drive, Auburn Township, Ohio 44023 in an R-1 zoning district.

Mr. Sparks revised the original appeal request by changing from a five-foot (5') setback to a seven and a half (7-1/2') foot setback; therefore BZA-2023-06v will read as follows:

Revised BZA-2023-06v--an appeal requesting a variance, submitted by Chad Sparks from the Auburn Township Zoning Resolution, Article 5.02(a)(2)a. Detached accessory buildings shall be located in side or rear yards at least fifteen feet (15') from any lot line…" for a proposed accessory building with a proposed seven and a half foot (7-1/2') setback, located at 10186 Widgeon Drive, Auburn Township, Ohio 44023 in an R-1 zoning district.

The meeting was called to order by Chairman Doug Hogan at 7:00 PM.

Roll call was taken with the following members present: Doug Hogan, Brian Stewart, Michael Varley, David Parker, Robert Ford and Lewis Tomsic. Ben Timmons was not present. Brian Stewart recused himself from hearing the case.

Fire Chief, John Phillips, Frank Kitko, Auburn Township Zoning Inspector and Jane Hardy, Assistant Zoning Inspector/BZA Secretary were also present.

The Pledge of Allegiance was led by Chairman Doug Hogan.

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

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.

Mr. Hogan also commented that the official record for this hearing will be the minutes recorded by the Board of Zoning Appeals Secretary and included in the official record is the case file for BZA-2023-06v and the Auburn Township Zoning Resolution.

Mr. Hogan proceeded with the request which was revised to the following:

<u>Revised to BZA-2023-06v</u>--an appeal requesting a variance, submitted by Chad Sparks from the Auburn Township Zoning Resolution, Article 5.02(a)(2)a. Detached accessory buildings shall be located in side or rear yards at least fifteen feet (15') from any lot line…" for a proposed accessory building with a proposed seven and a half foot (7-1/2') setback, located at 10186 Widgeon Drive, Auburn Township, Ohio 44023 in an R-1 zoning district.

Mr. Hogan again noted for the official record that Mr. Sparks was revising his original request from the original five foot (5') setback request to seven and a half foot (7-1/2') setback. Mr. Sparks confirmed Mr. Hogan's statement.

Mr. Sparks explained that the reason for the change is that he had a surveyor resurvey his parcel with the proposed location of the accessory building and the encroachment was not as large as he originally thought it would be at the time of his submittal.

Mr. Hogan asked Chad Sparks to explain his variance request. Mr. Sparks explained that he would like to build an accessory building at the end of his driveway. He further explained that he is limited to where he can locate the structure because of the location of his septic system and duplication area.

Mr. Sparks further also explained that he was informed by the Geauga County Health Department that the proposed structure needs to be ten (10') away from any component of the septic system including the septic field. Mr. Sparks explained why he was building the accessory building because he wants a place to store his camper, so it can be off his driveway. He also commented that he is not going to use the proposed building for any type of business or as living space, it will be used strictly for storage.

Mr. Hogan summarized that the structure is required to be ten feet (10') from the septic area and that was why the building needed to be moved closer to the lot line.

Mr. Parker asked if there would be heat or a bathroom in the structure. Mr. Sparks indicated that there would not be any heat or a bathroom within the building. Mr. Sparks further explained that there would be just a slab of concrete on the ground and the proposed building would be placed directly on the slab.

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

Kathleen Rastatter, 10166 Widgeon, testified that she was a contiguous property owner who lived next door to Mr. Sparks. She explained that she had a photo of her view from her back deck. She indicated that the photo shows her view from when she would be sitting on her back porch looking into her back yard and she feels that the proposed building 7.5' to the property line is not acceptable.

She further testified that she should not have to look at the structure that close to her property line. She also indicated that 19' is high for the proposed building. She further commented that she moved to Auburn Township for space and feels that this structure is just too close to her space and infringes on her property rights.

Thomas Rastatter, 10166 Widgeon, indicated that he has points he would like to make. Mr. Rastatter indicated that seven and a half foot (7-1/2') is too close to his property line. He further explained that the Rastatters would have to incur a substantial cost of planting evergreens to block the view of the building and he felt that they should not have to be responsible for that expense.

Mr. Rastatter's second point is that he felt property values would go down for the neighborhood if this building is allowed to be built. It was also noted that the structure and the garage door would face Widgeon Drive and all the houses in their neighborhood have side loading garages so you cannot see inside the garage.

Mr. Rastatter commented that he understands that if the building is 15' off the property line, Mr. Sparks would be within his rights. He also indicated that there is an area in the rear of the Spark's property where the building could be located.

It was noted that wherever the building would be located on the Spark's property, the Rastatters would still be looking at the building, their view is the applicant's back yard.

Mr. Rastatter also explained that water pools in the area where the building is proposed to be located and that could cause drainage issues on his property. Mr. Rastatter distributed pictures of the proposed location for the building.

Mrs. Rastatter again indicated that the proposed location is too close to their outdoor living space and the proposed building is big enough that someone could live in it.

Mr. Sparks indicated that he could plant trees around the building and that there would be drainage tiles that will drain any water to the street. Mr. Sparks also commented that where the water pools on the property, that area is going to be tied into the down spouts and drained to the streets. Mr. Sparks also indicated that he spoke with Colleen Sharp at Geauga Soil and Water and there was not a problem.

David Parker asked Fire Chief John Phillips if he had any safety issues or concerns with what was being proposed. The Fire Chief testified that he did not.

Mr. Hogan asked Zoning Inspector, Frank Kitko, if Mr. Kitko had any concerns with the proposed project.

Mr. Kitko did indicate that the variance request is substantial at 50%. Mr. Kitko did also indicate that he has two different sets of prints, in his packet, with different size buildings.

Mr. Sparks explained that he already made the building smaller, and it is now a 40' x 24' structure and the structure is 19' in height. He indicated that he must have forgotten to pull out the original prints for the larger building.

To verify that the corrected sized proposed building would be constructed, Mr. Tomsic verified with the Zoning Inspector that a stake out inspection would be done before construction began. Frank Kitko indicated that he would do a stake out inspection before the building is constructed, if the variance is granted. Mr. Kitko also indicated that stake out inspections are standard practice.

Mr. Hogan commented that prior to the BZA meeting, he visited the Spark's property and understands why the proposed building is needed to be located by the driveway and that Mr. Hogan felt that there was no other logical place to locate the structure. Mr. Hogan also noted that the current shed on the Spark's property would be removed.

Mr. Hogan asked if Mr. Sparks would be willing to allow a condition to be placed on his request requiring him to plant landscape screening, like arborvitaes, to help screen the building from the contiguous property owner. Mr. Sparks indicated that he would not have a problem with that.

Dr. Varley asked if there was an HOA for the street. It was noted that there was not an HOA for the homeowners on the street.

Mrs. Rastatter indicated again that this building is the size of a house, and it should not be allowed to be built that close to her property line— seven and a half foot (7-1/2') away from her property. She also indicated that the Township could be setting a precedent by allowing this and she commented that nowhere should a house be that close to a property line.

A discussion took place regarding adding some leach field to the existing leach field, since the reason for the variance request has to do with the proposed building encroaching on the required setback from the septic field.

Lewis Tomsic, a retired septic installer, testified that there was not enough room on the property to add additional leach field without moving trees back in the woods. He also pointed out that to move the building back on the property would require the trees, that shield the noise of the expressway, would need to be removed. Mr. Tomsic commented that the tree removal would create another problem with noise from the expressway.

Robert Ford commented that moving the building back from the proposed site would encroach into the curtain drain of the septic or be very close to the curtain drain which would not be permitted.

Mr. Hogan commented that the building is smaller than what was originally proposed, but he understands that it still has to be large enough to store the camper inside.

Mike Maroun, a contiguous property owner, who lives across the street from both the Sparks and the Rastatters, indicated that he is friends with both parties and understands both sides of the concerns of his neighbors.

Mr. Maroun indicated that the Sparks have a lot of clutter, including a camper and 4 cars. He has weighed the benefit of the building for storage of the "stuff" and the concern for the aesthetics from his other neighbor. Mr. Maroun indicated that, in his opinion, he felt it would be more of a benefit to the neighborhood to have the clutter in the Spark's yard cleaned up and placed in the new proposed structure.

Mrs. Rastatter indicated the motor home can stay on the driveway. She again testified that the height and size of the building will decrease their ability to enjoy their backyard when they are outside.

Mrs. Rastatter also indicated that they enjoy them [the Sparks] as neighbors but seven and a half foot (7-1/2') off her property line is too close for this size building.

Mr. Hogan pointed out that that Mr. Sparks agreed to plant natural screening. A discussion took place regarding the height of the proposed natural screening. Mr. Hogan indicated that he felt three-foot (3') arborvitaes would offer screening for Mr. Spark's project, especially since the arborvitaes grow quickly.

Mrs. Rastatter indicated that she wanted ten (10') or fifteen-foot (15') evergreen trees as screening, so that she could maintain her quality of outdoor life while living in Auburn Township.

There were no further comments.

Motion by Doug Hogan to grant BZA-2023-06v--an appeal requesting a variance, submitted by Chad Sparks from the Auburn Township Zoning Resolution, Article 5.02(a)(2)a. Detached accessory buildings shall be located in side or rear yards at least fifteen feet (15') from any lot line…" for a proposed accessory building with a proposed seven and a half foot (7-1/2') setback, located at 10186 Widgeon Drive, Auburn Township, Ohio 44023 in an R-1 zoning district, with the condition that within six (6) months of construction being completed that the agreed to landscape screening of arborvitaes or comparable would be planted the length of the new structure.

The motion was seconded by Lewis Tomsic. Vote: Varley, no; Ford, no; Tomsic, yes; Parker, yes; and Hogan, yes. The motion was granted.

Mr. Hogan again explained, in detail, that the decision from the Spark's hearing can be appealed to Common Pleas Court and further explained the appeal process. Mr. Hogan commented that the decision from tonight's hearing will not be final until thirty days after the minutes are approved. He commented that the minutes for this case will be approved on September 12, 2023, at the Board of Appeals meeting, and the decision will be effective thirty (30) days from the date that the minutes are approved.

The meeting moved on to the next item on the agenda which was minute approval.

Board members read the meeting minutes from the July 11, 2023, meeting.

Motion by Michael Varley to approve the meeting minutes for the July 11, 2023, meeting for BZA-2023-02v for Anthony Marra. The motion was seconded by Doug Hogan. Vote: Stewart, yes; Ford, yes; Tomsic, abstain; Varley, yes; and Hogan, yes. The motion was granted.

Motion by Michael Varley to approve the Findings of Facts for the July 11, 2023, meeting for BZA-2023-02v for Anthony Marra. The motion was seconded by Doug Hogan. Vote: Stewart, yes; Ford, yes; Tomsic, abstain; Varley, yes; and Hogan, yes. The motion was granted.

Members signed the Findings of Facts.

Motion by Robert Ford to approve the meeting minutes for July 11, 2023, meeting for BZA-2023-03v for Nick Marra. The motion was seconded by Michael Varley. Vote: Stewart, yes; Ford, yes; Tomsic, abstain; Varley, yes; and Hogan, yes. The motion was granted.

Motion by Robert Ford to approve the Findings of Facts for July 11, 2023, meeting for BZA-2023-03v for Nick Marra. The motion was seconded by Michael Varley. Vote: Stewart, yes; Ford, yes; Tomsic, abstain; Varley, yes; and Hogan, yes. The motion was granted.

Members signed the Findings of Facts.

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Auburn Township Administration Building
11010 Washington Street August 8, 2023 6

Held BZA-2023-06v 20

Motion by Brian Stewart to approve the meeting minutes for July 11, 2023, meeting for BZA-2023-04v for Nick Marra. The motion was seconded by Doug Hogan. Vote: Stewart, yes; Ford, yes; Tomsic, abstain; Varley, yes; and Hogan, yes. The motion was granted.

Motion by Michael Varley to approve the Findings of Facts for July 11, 2023, meeting for BZA-2023-04v for Nick Marra. The motion was seconded by Doug Hogan. Vote: Stewart, yes; Ford, yes; Tomsic, abstain; Varley, yes; and Hogan, yes. The motion was granted.

Members signed the Findings of Facts.

Motion by Bob Ford to approve the meeting minutes for July 11, 2023, meeting for BZA-2023-05v for Francis Brady. The motion was seconded by Brian Stewart. Vote: Stewart, yes; Ford, yes; Tomsic, abstain; Varley, yes; and Hogan, yes. The motion was granted.

Motion by Douglas Hogan to approve the Findings of Facts for July 11, 2023, meeting for BZA-2023-05v for Francis Brady. The motion was seconded by Brian Stewart. Vote: Stewart, yes; Ford, yes; Tomsic, abstain; Varley, yes; and Hogan, yes. The motion was granted.

The next meeting will be September 12, 2023, to approve minutes.

It was noted that Mr. Stewart and Mr. Ford will not be at the September 12, 2023, meeting.

Mr. Hogan and Mr. Ford will not be at the October 10, 2023, meeting.

Motion by Lewis Tomsic to adjourn the meeting. The motion was seconded by Brian Stewart. Vote: Stewart, yes; Ford, yes; Tomsic, yes; Parker, yes; and Hogan, yes. The motion was granted.

The meeting was adjourned.

Minutes submitted by

Jane Hardy, BZA Secretary

Minutes Approved on:

September 12, 2023

Douglas Hogan, Chairman