MEMBERS PRESENT: DOUG HOGAN, MICHAEL VARLEY, ROBERT FORD, BEN TIMMONS, LEWIS TOMSIC

MEMBER ABSENT: DAVID PARKER, BRIAN STEWART,

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

CASE FILE: The case file for BZA-2024-12v is included as part of the official record, along with the Auburn Township Zoning Resolution

Continuation of BZA-2024-12v—an appeal requesting a variance, submitted by Mark T. DiDomenico, Trustee, from the Auburn Township Zoning Resolution, Article 2.02 Accessory Building …(3) which is located on the same lot with the principle building, …, for a proposed accessory building to be located on a vacant lot identified as PPN: 01-117573 S/L 22 Grouse Point Estates, Auburn Township, Ohio 44023, in an R-1 zoning district.

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

Mr. Ford swore in Mr. DiDomenico.

Ben Timmons was still recused from the previous hearing on July 9, 2024.

The Pledge of Allegiance was led by Chairman Robert Ford.

Mr. Ford verified that everyone who was present and going to testify had signed in.

Mr. Ford swore in Mr. DiDomenico.

Chairman Ford reread 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. Ford also commented that the official record for this continued meeting will be the minutes recorded by the Board of Zoning Appeals Secretary. Mr. Ford commented that part of the official record, is the case file for BZA-2024-12v and the Auburn Township Zoning Resolution.

Chairman Ford proceeded with Old Business which was a continuation of:

BZA-2024-12v—an appeal requesting a variance, submitted by Mark T. DiDomenico, Trustee, from the Auburn Township Zoning Resolution, Article 2.02 Accessory Building …(3) which is located on the same lot with the principle building, …, for a proposed accessory building to be located on a vacant lot identified as PPN: 01-117573 S/L 22 Grouse Point Estates, Auburn Township, Ohio 44023, in an R-1 zoning district

Mark DiDomenico was asked to continue presenting his request.

Mr. DiDomenico indicated that he had revised drawings of the pole barn that he is proposing to build on the property that he owns that is located on Widgeon Drive. Those drawings were distributed to all Board members.

He also explained that he received a proposal from a surveyor about combining the two lots that he currently owns. He explained that the surveyor informed him that if he combines the lots now, there will be an issue when he would go and try to re-split the lots and he would not be able to because the lots are currently only 1.5 acres and since he is in a R-1 zoning district, that zoning district requires three (3) acres per lot.

He further explained he had a couple new ideas regarding the proposed driveway that is needed to access the proposed structure. The first idea is to access the vacant lot from Taylor May Road and the other idea would be to access the lot directly off of Widgeon Road and have the driveway located solely on the lot with the proposed structure, instead of accessing the vacant lot from his property with his dwelling located on it.

Mr. DiDomenico again explained that "down the road" he might want to build a house on this current vacant lot either for his daughter or maybe to downsize from the dwelling that he is currently living in.

He again noted that because of what the surveyor explained to him, he does not want to combine the lots.

Mr. Tomsic commented that with the lot area just being 1.5 acres, in Mr. Tomsic's professional opinion, it would be a bit foolish to take the risk now with building an accessory building and driveway and not being able to get a septic installed on the property later, if he decided to build a dwelling.

Mr. Tomsic commented that clearing for the proposed structure and driveway could take up a good portion of the lot and the area that the septic would be installed might get ruined.

Mr. Hogan commented that with the size of the proposed building, there would still be a lot of storage on a separate lot. Mr. Hogan further explained that the proposed lot with the accessory building could be sold by itself and the Township would have no control about what business might go in there and this is a problem.

Mr. Hogan further commented that a variance stays with the property and if a variance is granted that it would be with this property forever.

Mr. DiDomenico commented that he does own a landscaping company, but he also owns a building in Bedford Heights where the landscaping business is located at. He explained again that he has a lot of personal stuff and does not want to keep storing his personal belongings at his business location any longer. He further commented that he has a 30,000 square foot building on Majestic Parkway that he owns.

Mr. DiDomenico commented that he does not want his current driveway at his dwelling to look like a parking lot.

Mr. Tomsic commented that granting the variance could be setting a precedent. The Township does not permit an accessory structure to be located on property without a dwelling unit.

Mr. DiDomenico commented that his neighbors do not mind or otherwise they would be at the meeting.

Mr. Ford asked Mr. Kitko for his comments.

Mr. Kitko explained to the Board that according to the Auburn Township Zoning Resolution, Article 3.03 (g); this vacant lot is not a grandfathered buildable lot. He explained that in his opinion, it is not a compliant lot because it does not meet all the qualifications of being grandfathered. He indicated that the requirements are outlined in the zoning resolution. Mr. Kitko also explained that a dwelling could not be built on this vacant lot without a variance.

Mr. Kitko further commented that if you own two substandard contiguous lots there is criteria that must be met in order for the lots to be grandfathered.

He commented that it is a tough situation either way, but the variance stays with the property forever and the Township has no control over what can be done with the accessory building on a property without a dwelling.

There was no further comment or questions.

Motion by Doug Hogan to grant BZA-2024-12v—an appeal requesting a variance, submitted by Mark T. DiDomenico, Trustee, from the Auburn Township Zoning Resolution, Article 2.02 Accessory Building …(3) which is located on the same lot with the principle building, …, for a proposed accessory building to be located on a vacant lot identified as PPN: 01-117573 S/L 22 Grouse Point Estates, Auburn Township, Ohio 44023, in an R-1 zoning district

The motion was seconded by Lewis Tomsic. Vote: Hogan, no; Ford, yes; Tomsic, no; Varley, no. Mr. Timmons recused himself.

The motion was denied.

Mr. Ford explained the appeal period to the applicant.

RECORD OF PROCEEDINGS

AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR

Minutes of Meeting

Auburn Township Administration Building

11010 Washington Street August 13, 2024 4

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

Held BZA-2024-12v 20

Mr. DiDomenico was very disappointed in the decision. He proceeded to continue to plead his case. Mr. DiDomenico commented that he would make the building look nice and there would be great landscaping around it. He reiterated how long he has been a resident in Auburn Township. Mr. DiDomenico asked for another vote to be taken. Mr. Ford was not having it.

It was again explained to Mr. DiDomenico about how the variance stays with the property and conditions cannot be set on the variance.

It was also again explained to Mr. DiDomenico that he has the right to appeal the decision and that might be an option for him to consider.

The Board moved on to the next item on the agenda.

Board members read the meeting minutes for July 9, 2024, for BZA-2024-11v, Community Garden Supply, Ben Moidell. There were no comments.

Motion by Michael Varley to approve the meeting minutes from the July 9, 2024, meeting for BZA-2024-11v, for Community Garden Supply. The motion was seconded by Doug Hogan. Vote: Timmons, yes; Hogan, yes; Tomsic, yes; Ford, yes; and Varley, yes. Motion passed.

Motion by Lewis Tomsic to approve the Findings of Facts from the July 9, 2024, meeting for BZA-2024-11v, for Community Garden Supply. The motion was seconded by Robert Ford. Vote: Timmons, yes; Hogan, yes; Tomsic, yes; Ford, yes; and Varley, yes. Motion passed.

Motion by Doug Hogan to approve the meeting minutes from the July 9, 2024, meeting for BZA-2024-12v, for Mark T. DiDomenico. The motion was seconded by Robert Ford. Vote: Timmons, yes; Hogan, yes; Tomsic, yes; Ford, yes; and Varley, yes. Motion passed.

Next meeting will be September 10, 2024.

Motion to Michael Varley to adjourn the meeting. The motion was seconded by Ben Timmons. Vote: Timmons, yes; Tomsic, yes; Hogan, yes; Ford, yes; and Varley, yes. Motion passed.

Minutes submitted by

Jane Hardy, BZA Secretary

Minutes Approved on:

September 5, 2024

Robert Ford, Chairman