RECORD OF PROCEEDINGS

Minutes of AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR Meeting

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

Held 11450 Washington Street Adam Hall July 8, 2025 1 20

FINAL

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

MEMBER ABSENT: DAVID PARKER

MEMBERS HEARING THE CASE: MICHAEL VARLEY, ROBERT FORD, LEWIS TOMSIC, DOUG HOGAN, BEN TIMMONS

CASE FILE: The case file for BZA-2025-06v is included as part of the official record, along with the Auburn Township Zoning Resolution

BZA-2025-06v--an appeal requesting a variance, submitted by **Dino Capito,** from the Auburn Township Zoning Resolution, **Article 4.03(h) Maximum Building Heights: . . , and no accessory building shall exceed a height of eighteen feet (18')** for a proposed twenty-one (21') accessory building to be located at **9955 Waterford Trail, Auburn Township OH 44023** in an R-1 zoning district.

The meeting continued on to the next item on the agenda which was:

> **BZA-2025-06v--an appeal requesting a variance, submitted by Dino Capito, from the Auburn Township Zoning Resolution, Article 4.03(h) Maximum Building Heights: . . , and no accessory building shall exceed a height of eighteen feet (18') for a proposed twenty-one (21') accessory building to be located at 9955 Waterford Trail, Auburn Township OH 44023 in an R-1 zoning district.**

BZA Members hearing the case were Hogan, Timmons, Varley, Tomsic and Ford.

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

Mr. Ford again verified that everyone in attendance had signed in.

Mr. Ford then proceeded to swear everyone in who was planning on testifying.

Chairman Ford indicated that the opening statement was applicable to this case also and is 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 commented that the official record for this meeting will be the minutes of the Board of Zoning Appeals Secretary.

Mr. Capito introduced himself to the Board. He explained his proposed project. Mr. Capito commented that he wanted to build an accessory building on his property to be used for storage.

He further explained that the structure will have the same siding and shingles that are currently on his house, so they will match his dwelling. He indicated that he had to comply with the HOA requirements so that the structure needs to look similar to the house.

Mr. Ford asked what the height of the proposed building will be. Mr. Capito indicated that it will be a 6-12 pitch and there will be no upstairs. He also noted that he does not have any mother-in-law suite in it and that it will be used strictly for storage.

Mr. Capito also commented that when he purchased his home the permitted accessory dwelling height was 23'.

Contiguous property owner, Mr. and Mrs. Marn, questioned why he needed another building on the property. Mr. Marn was concerned about where the water from the structure would go and how it might affect his septic system. Mr. Marn also commented about why accessory buildings are allowed to be constructed in their subdivision. It was pointed out that this is an HOA issue.

A discussion took place regarding the HOA requirements for matching the accessory structure to the dwelling.

A discussion took place regarding the fact that Mr. Capito had already started the project. Mr. Capito indicated that he has put footers in to place the concrete. He did also indicate that he did obtain a building permit for the work that was done already.

Mr. Ford explained what the proper procedure was for doing this project and how Mr. Capito's project was being done backwards.

Because the contiguous property owners were upset, Mr. Capito considered lowering the structure to a compliant height. A discussion took place regarding changing the height of the building. Mr. Capito decided to keep it at the proposed height.

There was no other comments or questions.

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Motion by Doug Hogan to grant BZA-2025-06v--an appeal requesting a variance, submitted by Dino Capito, from the Auburn Township Zoning Resolution, Article 4.03(h) Maximum Building Heights: . . , and no accessory building shall exceed a height of eighteen feet (18') for a proposed twenty-one (21') accessory building to be located at 9955 Waterford Trail, Auburn Township OH 44023 in an R-1 zoning district.

The motion was seconded by Ben Timmons.

Vote: Hogan, yes; Ford, yes; Varley, yes; Timmons, yes; Tomsic, no.

Motion granted.

Mr. Ford again explained the appeal process.

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

The meeting was adjourned.

Minutes submitted by

Jane Hardy, BZA Secretary

Minutes Approved on:

August 12, 2025

Robert Ford, Chairman