RECORD OF PROCEEDINGS

Minutes of AUBURN TOWNSHIP BOARD OF ZONING APPEALS—REGULAR Meeting

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

Held 11010 Washington Street Auburn Township Administration Building November 4, 2025 20 1

FINAL

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

MEMBER ABSENT: DAVID PARKER. BEN TIMMONS

MEMBERS HEARING THE CASE: ROBERT FORD, DOUG HOGAN, BRIAN STEWART, MICHAEL VARLEY, LEWIS TOMSIC

CASE FILE: The case file for BZA-2025-08v is included as part of the official record, along with the Auburn Township Zoning Resolution

CASE: **BZA-2025-08v**--an appeal requesting a variance, submitted by **Edwin King,** from the Auburn Township Zoning Resolution, **Article 5.02(g)—"…Each such pool shall be fully enclosed by a permanently constructed chain link fence or equally secure fence or wall not less than four 4) nor more than six (6) feet in height…" "All gates shall be self-closing and self-latching with a latch not readily accessible for children to open."** For an existing in-ground swimming pool located at 10505 Taylor May Road, Auburn Township, Ohio 44023 in an R-1 zoning district.

The meeting was called to order by Chairman Robert Ford.

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

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

The Pledge of Allegiance was recited.

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

Mr. Ford swore everyone in who was planning on testifying.

Mr. Ford 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. Ford commented that the official record for this meeting will be the minutes by the Board of Zoning Appeals Secretary. Mr. Ford also noted that part of the official record, is the case file for BZA-2025-08v and the Auburn Township Zoning Resolution.

Chairman Ford proceeded with the first agenda item under New Business which was:

BZA-2025-08v--an appeal requesting a variance, submitted by Edwin King, from the Auburn Township Zoning Resolution, Article 5.02(g)—"…Each such pool shall be fully enclosed by a permanently constructed chain link fence or equally secure fence or wall not less than four 4) nor more than six (6) feet in height…" "All gates shall be self-closing and self-latching with a latch not readily accessible for children to open." For an existing in-ground swimming pool located at 10505 Taylor May Road, Auburn Township, Ohio 44023 in an R-1 zoning district.

The applicant was asked to present his case.

Mr. Edwin King introduced himself to the Board and indicated that he lives at 10505 Taylor May, Auburn Township, Ohio. He explained that they built their dream house with a lake view, in the last year and the lake view is everything he has ever wanted. He also indicated that the swimming pool is overlooking the lake. He noted that they had lived in Macedonia where they also had a swimming pool.

Mr. King explained that the pool has a sealed winter cover that holds up to 2000 pounds, has motion lights, there is video surveillance that rings directly to their cell phones. He also explained that the cover has an opening/closing feature for "in-season" that can only be opened by the homeowners with a code. He commented that he is asking for consideration to not have a fence because of all these security options they have implemented for the swimming pool.

He further explained that when they were planning this swimming pool, they discussed with the contractor what they could do to avoid installing a fence. The pool contractor suggested a safety cover and also a safety winter cover. He explained that the cover could hold 2000 pounds. He indicated that it is currently installed, there is an alarm that signals the Kings phones and there is a motion detector. He also commented that he did not realize that Auburn had regulations that are different than the Ohio Revised Code.

He also indicated that his neighbors do not have an issue with the cover and no fence and that there were letters submitted. His neighbors are the Gerbers and Donna May.

Mr. King indicated that their property is isolated on 2.5 acres.

Chairman Ford asked Zoning Inspector Frank Kitko for his comments. Mr. Kitko indicated that the Zoning Resolution indicates that a 4' high fence needs to be installed around a swimming pool and currently this requirement cannot be substituted for a retractable cover; he also indicated that as long as that fencing requirement is in place that is what he as Zoning Inspector needs to enforce.

Mr. Kitko also commented that his concern is that the liability for an accident could fall on the Township, if there is an accident and if the pool cover is not on. Mr. Kitko also commented that the variance stays with the property forever, even if the Kings sell the property.

Fire Chief John Phillips indicated that he agreed that this could be a liability.

Mr. Ford and Mr. Hogan also commented that the pool contractor and homeowner did not do the due diligence for this project.

Mr. Stewart commented that a variance cannot be revoked and suggested that a wrought iron fence could be considered.

Joseph McCluskey, a contiguous property owner, stated that he saw the swimming pool and was shown the security options that were in place for the pool. He indicated that he would not mind if Mr. King did not have the required fence installed.

David Button, 10485 Taylor May indicated that he does not have a problem with not having a fence installed. Mr. Button also commented that the lake does not have a fence either.

Motion by Lewis Tomsic to grant BZA-2025-08v--an appeal requesting a variance, submitted by Edwin King, from the Auburn Township Zoning Resolution, Article 5.02(g)—"…Each such pool shall be fully enclosed by a permanently constructed chain link fence or equally secure fence or wall not less than four 4) nor more than six (6) feet in height…" "All gates shall be self-closing and self-latching with a latch not readily accessible for children to open." For an existing in-ground swimming pool located at 10505 Taylor May Road, Auburn Township, Ohio 44023 in an R-1 zoning district. The motion was seconded by Michael Varley. Vote: Hogan, no; Varley, no; Tomsic, no; Stewart, no; and Ford, no.

The motion was denied.

The appeal process was again explained to Mr. King.

A discussion took place regarding Mr. Kings' property and the amount of fill and gravel that were used on the property. Mr. King also commented that he understood the Township's concern regarding liability.

Mr. Hogan also explained for Mr. Button, the difference between the lake that is not fenced in and a swimming pool—a lake is a gradual descend into the water and a swimming pool is not.

There was no further comments or questions.

Motion by Michael Varley to approve the meeting minutes from BZA-2025-07v. The motion was seconded by Brian Stewart. Vote: Hogan, yes; Varley, yes; Tomsic, yes and Stewart, yes.

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Motion by Michael Varley to approve the findings of facts for BZA-2025-07v. The motion was seconded by Brian Stewart. Vote: Hogan, yes; Varley, yes; Tomsic, yes and Stewart, yes.

The next meeting will be December 9, 2025. At this point, there is no case pending, but the Board will meet to approve meeting minutes and the findings of facts.

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

The meeting was adjourned.

Minutes submitted by

Allison Lesniak, BZA Secretary

Minutes Approved on:

December 9, 2025

Robert Ford, Chairman