

RECORD OF PROCEEDINGS

WALNUT TOWNSHIP, FAIRFIELD COUNTY, OH - BOARD OF ZONING APPEALS (BZA)

11420 Millersport Rd., Millersport, OH 43067

HEARING #23-138 & #23-139 MEETING MINUTES

November 9, 2023 – 7:00 P.M.

Board of Zoning Appeals members present/absent:

Members present - Alex Fant, Ken Rienschield, Ron Sharpe, Martha Snavelly, Rick Singer – Alternate. Members absent – Mark Helms

Zoning Inspector: Mike Berry – entered the meeting at 7:50 PM

List of members of the public present, from sign-in sheet:

1. Kyle Mapel, 57 Blue Bonnett Drive, Newark OH 43056
2. Tabi & Shawn Lamme, 5052 Fairfield Beach Rd.
3. Aleisa Culp, 13061 Cedar Rd.
4. Jordan Cremeans, 13038 Dogwood Rd. NE
5. Christina Hicks, 13026 Dogwood Rd. NE
6. Henry Gayheart, 13038 Dogwood Rd. NE

The hearing was called to order at PM by Board of Zoning Appeals Chair Fant and the Pledge of Allegiance to the Flag was recited.

Advertised Purpose of Hearing:

The purpose of the Hearing was for the request form a proposed lot split. Per Article IX (RMU zoning district) 9.9-F-1&2: Minimum lot area required shall be ten thousand (10,000) square feet. Minimum frontage shall be one hundred (100) continuous feet from the road frontage.

Swearing in of ALL members of the public that intend to speak by the Chair: Chair stated. Any member of the public intending to speak or think they may want to speak during these proceedings shall rise to be sworn in. Please raise your right hand and repeat *"I state your name, agree to tell the truth the whole truth and nothing but the truth during these proceedings, so help me God"*.

Information provided to the Board of Zoning Appeals prior to the proceedings:

Exhibit #23-138 & #23-139 - A: (4 pgs. each): Zoning Application

Exhibit # 23- 138 & #23-139 - B: (1 pg. each) Auditor's Aerial photograph

Exhibit #23-138 & #23-139 – C: (1 pg. each) Notice to property owners

Exhibit #23-138 & #23-139 - D (1 pg. each): Letter to Contiguous Property Owners

Additional documents provided through email by applicant Kyle Mapel to the BZA Board:

Exhibit #23-138 & #23-139 – E (2 pgs.) Legal right of way dated 1940.

The applicant, Kyle Mapel, 57 Blue Bonnett Drive, Newark, OH stated he is requesting lot splits between Cedar and Dogwood Roads, and North and South Alder and Fairfield Beach roads to make buildable lots. With the split he can make 8 buildable lots for 10,000 sq. ft., however, 2 of the lots fell below the required 10,000 sq. ft. Chair Fant asked about the gas line location. The applicant said the gas line runs East and West, looking at the plat, it is the first and second lots and Columbia Gas has 25 ft. on each side that is untouchable. Chair Fant asked what the current setback is, Mr. Mapel was not certain, but thought it was a 15ft. setback. The main reason asking for the lot split was to put a smaller lot farther away from the gas line.

Discussion:

Henry Gayheart, resident of Fairfield Beach stated that he is concerned about water quality. Chair Fant stated that he shared their concern as a Fairfield Beach resident. He also stated that even if this variance were denied, there would still be six buildable lots. There was additional concern about interruption for gas lines, electrical lines, etc. Chair Fant said that there is little that the BZA board could do to deter those interruptions. Shawn Lamme stated that the applicant was doing a good job and appeared to be improving the area, but asked why they couldn't build nice individual homes rather than duplex homes. Chair Fant replied that the applicant is limited to how intense the build can be on those lots. Shawn Lamme stated that Mike Berry stated that the lot that has the gas line running through was buildable with a 6 ft. setback. Chair Fant stated for the record that Mr. Lamme was referring to the lot on Cedar.

At 7:25 PM Chair Fant moved to go into Executive Session, second by Ron Sharpe. Motion passed with 5 yes votes.

At 7:34 PM the Board of Zoning Appeals entered back into session.

Chair Fant addressed the attendees and reviewed the 9 factors in deciding whether to approve or disapprove the Variance:

- I. **Area Variance:** If the applicant is asking for a variance in the area requirements of the Code (size, setbacks, etc.), a variance should be granted if strict adherence results in practical difficulties with the use of the property. To determine if there is a practical difficulty, using the variance application and testimony from the applicant at hearing, review the following:
 - a. In granting an Area Variance, the Board shall determine that one or both of the following factors are met by the request: **The Chair's comments below in red:**
 - i. The conditions upon which an application for a Variance is based are particular to the subject property with respect to the physical size, shape or other characteristics of the premises or adjoining premises, differentiating it from other premises in the same district; or **"there is something different about these lots different than the lots surrounding them."**
 - ii. The Variance would result in an improvement of the property that is more appropriate and more beneficial to the community than would be the case without granting of the Variance. **The development of the property to single and or double family homes would improve the current status of the existing neighborhood, bringing new life and people to the area."**
 - b. In granting an Area Variance, the Board shall also determine that all of the following factors are met by the request:
 - i. The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer a substantial detriment as a result of the Variance; **"It is currently zoned residential; the lot split would not alter the existing neighborhood."**
 - ii. The spirit and intent behind the subject zoning requirement would be observed and substantial justice done by granting the Variance; **"dividing the lots as they have instead of 4 or 5 non-conforming lots,"**
 - iii. The Variance is not substantial and is the minimum necessary to afford relief to the applicant and achieve an appropriate and beneficial improvement of the property; and **"The variance affects only 2 of the lots"**
 - iv. The Variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage). **"Because they are respecting the gas line, they are avoiding adversely affecting delivery of governmental services."**
 - c. In granting an Area Variance, the Board shall also consider the following factors:
 - i. Whether the property owner purchased the property with knowledge of the zoning restriction; **"Chair Fant stated that the property owner did purchase with the knowledge of restrictions."**
 - ii. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the Variance; and **"there could be some use, but allowing the variance maximizes the use of the property."**
 - iii. Whether the property owner's predicament feasibly can be obviated through some method other than a Variance. **"There is no other way to do this without leaving negative space, therefore the variance is necessary."**

Comments from the public: Christina Hicks, 13026 Dogwood Road commented that she understood that there were 6 buildable lots existing on the property and that is enough and there shouldn't be any need to change zoning. Chair Fant stated he understood her but if it makes it any easier, any other variances would have to come before the Board and it wouldn't be automatic.

To approve or disapprove the applicant's submission for Application #23-189 & #23-139:

Motion made by Ron Sharpe to approve the variance, second by Martha Snavelly. Motion to approve Variance Application #23-138 & #23-139 passed with 5 votes.

Roll Call Vote:

Rienschield - Yes, Fant - Yes, Sharpe - Yes, Snavelly – Yes, Rick Singer, Alternate, - Yes

Applicants proposed Variance was approved.

Adjournment: At 7:45 PM Martha Snavelly made a motion to adjourn. Ken Reinschield seconded the motion. The motion to adjourn passed with 5 yes votes.

Minutes Recorded By: Patricia McLoughlin

Alex Fant – Chair

Martha Snavelly – Vice Chair