

# RECORD OF PROCEEDINGS

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

11420 Millersport Rd., Millersport, OH 43067

## HEARING #24-90 MEETING MINUTES

SEPTEMBER 12, 2024 – 7:39 PM

### Board of Zoning Appeals members present/absent:

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

**Zoning Inspector:** Mike Berry – present

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

1. Charles Pillon
2. Kelly & Phil Vermilion, 3092 Greenlawn Ave.

**Advertised Purpose of Hearing:** Variance #24-90 is requested for the property located at 3119 & 3121 Chestnut Lane Millersport, OH. The applicant requested to build a duplex on a lot 80' W x 100' D.

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

**Exhibit 24-90 - A (4 pgs.):** Zoning Application #24-90

**Exhibit # 24-90 - B (1 pgs.):** Site Survey

**Exhibit #24-90 - C (1 pgs.):** Foundation Plan

**Exhibit #24-90- D (1 pgs.)** Front Elevation

**Exhibit #24-90 - E (1 pgs.)** Rear Elevation

**Exhibit #24-90 - F (1 pgs.)** Duplex #1 Drawing

**Exhibit #24-90 - G (1 pgs.)** Duplex #2 Drawing

**Exhibit #24-90 – H (9 pgs.)** Packet of photos provided by resident Kelly

**Chair administered the oath to all members addressing the Board of Zoning Appeals.**

**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”*.

**Discussion:** Chair Fant asked the applicant to address the Board. The Variance is to build a duplex on a non-conforming lot. Mike Berry issued a permit to John Doneff for a duplex on a lot 80' x 100'. Mike Berry stated that the zoning resolution states a single-family home on a non-conforming lot, so it was a mistake that he admitted in issuing the duplex permit. He said that the structure is almost completed. Mr. Berry stated that this variance will make the lot livable. Chair asked Mike Berry if there were any existing duplexes on Lieb's Island and he replied no. Chair Fant stated that if this lot was 100 x 100 there wouldn't be a need for a variance to build. Chair Fant stated that this property is zoned R2 so that a two-family structure is allowed, it's just that this is a non-conforming lot and on a 100' x 100' lot a duplex would be allowed. Chair Fant said that in a perfect world we would have the ability to wipe the slate clean, what would be the right thing for this property. The answer would be to build two smaller homes on the same lot. Mike said that actually a duplex is better because of the lot setbacks for two smaller homes. Chair Fant stated that it is not a question of one family vs. two, but what would make better sense for this property.

Kelly stated that the structure is huge, a giant wall of a house and it doesn't look like any other structure on Lieb's Island. She is concerned about changing the character of the neighborhood.

When making a decision on whether to approve or disapprove a variance, there are 9 factors considered by the Board of Zoning Appeals.

- 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:
    - 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 **“because the subject property is not the same as other subject properties and is smaller than other subject properties.”**
    - 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. **“no**
  - 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; doesn't think that it would be a detriment **“this would be a wash because the alternative is two smaller properties to house two families versus one structure”**
    - ii. The spirit and intent behind the subject zoning requirement would be observed and substantial justice done by granting the Variance; again, the spirit and intent is to maintain and make a livable home **“if the variance were denied the applicant could build two structures vs. one. The variance is at a minimum necessary.”**
    - 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 **“although there aren't any current duplexes existing, it doesn't mean that they are not permitted.”**
    - iv. The Variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage). **“government services would be better served with one structure vs. two structures”**
  - 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; **“the applicant purchased the property in 2023 and therefore did know what the restrictions were.”**
    - 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 in that they could build two smaller properties in the same density.”**
    - iii. Whether the property owner's predicament feasibly can be obviated through some method other than a Variance. **“no, we wouldn't have any other options.”**

Chair Fant asked for a Motion to Approve Variance Application #24-90, Martha Snavelly made the motion to accept Variance second by Mark Helms.

**Roll call: Fant – Yes, Helms – Yes, - Snavelly – Yes, Sharpe – Yes, - Reinschild, Yes,**

Motion to approve Variance passed with 5 yes votes.

Chair Fant asked the BZA members to explain their vote:

Sharpe – agreed that having on structure to house two families vs. two separate structures would be more beneficial. Snavelly – as stated by applicant he presented the variance in a concise manner, Helms said that it is a technicality that they had to request the variance as the lot was just shy of what they needed. Rienscheld - will look nice and take up less space.

**Adjournment:** Motion to adjourn by Ron Sharpe, second by Martha Snavelly at 8:06 PM

Motion passed with 5 votes.

Minutes Recorded By: Patricia McLoughlin

  
Alex Fant – Chair

  
Martha Snavely - Acting Vice Chair

