

Franklin Township, Portage County  
Board of Zoning Appeals  
July 8, 2019

Present: Chair David Hansford, Glenn Russell, Justin Money Penny, Shawn Martin, and Marilyn Sessions, Board Members; Sam Abell, Zoning Inspector, Joe Ciccozzi, Assistant Zoning Inspector, and Jenny August, Administrative Assistant.

Mr. Hansford called the Board of Zoning Appeals meeting to order at 7:00 p.m. He introduced the Board Members and explained the procedures for the meeting.

**7:00 Hearing:**

At 7:00 p.m. an application by Jim Dunphy, Patio Enclosures, 700 East Highland Ave. Macedonia OH 44056 representing Lynn Martinis, 6530 West Shore Dr. Kent for the property located at 6530 West Shore Dr. (parcel number 12-039-30-00-019-001) was heard for a variance to section 313.04.B which requires a minimum rear yard depth of thirty (30) feet. The applicant asked to construct a patio enclosure with a rear yard depth of four (4) feet.

Mr. Hansford asked who is here to speak to this tonight. Mr. Jim Dunphy of Patio Enclosures, 700 East Highland Ave. Macedonia representing Lynn Martinis of 6530 West Shore Drive was sworn in. He reviewed the parameters of the enclosure. Mr. Russell asked if the building department will have any issues with the easement. Ms. Martinis of 6530 West Shore Drive was sworn in. She said there would be no problems with the easement. Mrs. Sessions asked about the elevation of the deck. Mr. Dunphy said the patio doors will be 4 feet off the ground.

Mr. Russell moved to grant a rear yard setback variance of 26 feet which would allow the applicant to construct a patio enclosure with a rear yard depth of four (4) feet. Mr. Money Penny seconded the motion. All Board members voted yes. The variance is approved.

Mr. Hansford noted that there was a 30-day appeal period that would begin after the minutes of this meeting were journalized. The journalizing will occur at the next meeting of the Board of Zoning Appeals.

**Approval of Minutes:** Mr. Russell moved to approve the minutes as presented from the June 10, 2019 meeting. Mr. Money Penny seconded the motion. All Board members voted yes except Mrs. Sessions, who abstained. The meeting minutes were approved.

**Next Meeting:** The next meeting is scheduled for August 12, 2019 at 7:00 p.m.

**7:15 Hearing:**

At 7:15 p.m. an application by James. A. Moekle 7753 Addie St. Kent OH for the property located at 1482 North Blvd. Kent (parcel number 12-076-20-00-141-000) was heard for a variance to section 410.00.F.1 which limits fences within the front yard to four (4) feet high and section 310.04.A which requires a minimum front yard depth of forty-five (45)

feet. The applicant has constructed a front yard fence that is six (6) feet high and 2' 3" from the right-of-way.

Mr. Hansford asked who is here to speak to this tonight. Mr. James Moekle of 7753 Addie St. Kent was sworn in. He explained to the Board that the people who live at 1482 North Blvd own two very large and very protective dogs that need a higher fence to be contained. They breach the electronic fence. The Portage County Dog Warden has cited them in the past for not controlling the dogs. The owners did not realize that the fence they constructed was in their front yard due to the layout of the parcels. If they had put the fence at the 45 ft setback, it would have put the fence beyond the outside confines of the house with no access to it other than the gate.

Mrs. Sessions asked what kind of dogs they were. They are Great Dane mix. Mr. Russell asked if the front of the house is on North Blvd. Mr. Moekle said not any more. It is on Addie St. now per zoning. The front has always been facing North Blvd.

Zoning Inspector Abell said the zoning code defines the lot without the house on it, and for corner lots, it defines the rear yard as the side opposite the shorter of the two dimensions. The house faces North Blvd because it was built before the road. Mr. Abell says the mitigating factor here is that the fence will be built closer to the road than the house is. Mr. Russell asked about the material used in the fence. Mr. Moekle said it is wood and complies with the requirements of 25% light and air.

Mr. Hansford reviewed the Standards for an area variance.  
A-yes, B-yes , C-no , D-no , E-yes , F-yes , G-yes .

Mrs. Sessions moved to grant a front yard depth variance of 42' 9" which would allow the applicant to have a front yard fence that is 2' 3" from the right-of-way. Mr. Hansford seconded the motion. All Board members voted yes. The variance is approved.

Mr. Hansford moved to grant a front yard height variance of 2 feet which would allow the applicant to have a front yard fence that is 6 feet high. Mr. Money Penny seconded the motion. All Board members voted yes. The variance is approved.

Mr. Hansford noted that there was a 30-day appeal period that would begin after the minutes of this meeting were journalized. The journalizing will occur at the next meeting of the Board of Zoning Appeals

### **7:30 Hearing:**

At 7:30 p.m. an application by Richard Bancroft of Bancroft Development Group, 3516 Tuttle Ave. Cleveland OH representing Richard and Sandy Germaine 1951 White Feather Lane Nokomis FL 34275 for the property located at 4713 Newcomer Road (parcel numbers 13-063-00-00-004-000, 13-063-00-00-005-000 and 13-063-00-00-003-000) was heard for a conditional use Planned Residential Development which includes a site plan review. In addition the applicant is seeking variances to section 601.01.B.56.N.4.b which requires a minimum separation distance between principal residential dwellings of twenty (20) feet and requires a minimum side yard setback for principal buildings of ten (10) feet and section 404.05.C.3.b which requires a fifty (50) foot

buffer for Category 2 wetlands. The applicant wishes to construct primary residences that are separated by 15 feet and with a 7 ½ feet side yard setback. In addition there are three building lots that encroach on the 50 foot buffer requirement.

Mr. Hansford asked who is here to speak to this tonight. Mr. Richard Bancroft of Bancroft Development Group, 3516 Tuttle Ave. Cleveland was sworn in representing Richard and Sandy Germaine of 1951 White Feather Lane, Nokomis FL. Mr. Michael Wohlwend of Wohlwend Engineers Group 4216 Karg Industrial Parkway, Kent was also sworn in.

Mrs. Cindy Lukens Wagner of 4573 Newcomer Road wanted to make the Board aware that 7 people on adjoining properties were not notified of this hearing tonight. She is requesting that the Board table this hearing until they have time to review the proposal.

Mr. Bancroft reviewed his credentials of 23 years in the real estate and land acquisition business. He enlisted Mr. Wohlwend to help him put together something that will accommodate our zoning code. This is a 95½ acre parcel and 72 acres will be open space. The Army Corps of Engineers does not require a permit buffering wetlands unless they are being filled. Their buffers extend out. They have plans for culverts to avoid disturbing critical natural areas. There will be 107 homes averaging 1.1 units per acre, which is double the required open space. With only a few exceptions, every home backs up to open space. The residents to the north of this development will have the same view as they currently have. Mr. Wohlwend said they want to be cognizant of open space. They are minimizing the amount of infrastructure to minimize maintenance later. They are minimizing the impervious areas in order to minimize run off. They are going to follow storm water guidelines and will exceed the requirements for storm water.

Mr. Wohlwend noted that PCRP supports this development as long as this Board approves. The Portage County Engineer's office gave their approval. Akron Water & Summit County Sewer approved all of their plans.

Mr. Bancroft said that 16½ acres will be deeded to the Homeowners Association so it can remain open space. 57.4 acres will be donated to Wetlands Corporation. A Conservation easement will be on this site and eventually turned over to Portage Parks District, but first they are working with the Conservation group. Traffic impact analysis was presented to the Portage County Engineers and they determined this will not affect traffic. Flooding concerns have been addressed. Mr. Martin asked if these approvals are available. Mr. Bancroft said he can make them available.

Mr. Bancroft addressed property value concerns. There will be four types of homes constructed. The smallest one is 1820 square feet with a price tag of \$260,000 and they will all sit on a 5500 square foot lot. The next size up is 2014 square feet and will sell for \$272,000. The second largest home is 2040 square feet and will sell for \$284,000 and the largest home is 2718 square feet and will sell for \$296,000. The average home in Franklin Township is valued at \$109.50 per square foot. There are two hardships here:

1. The homes are 33-38 feet wide, so there are a few lots that would require less than a 20 foot separation between buildings. This could happen only when the biggest house might be built next to another of the same size. It is possible that one might be built farther back so they have a 20 foot distance between the two,

but he can't be sure that is where they would be built. The state fire code only requires 10 feet. They could do 147 homes but would rather leave open space. They are asking for the variance on all of the lots since they don't know where this might happen.

2. There are three lots that encroach on the wetlands, not actual buildings, but the lots. This is a very minor variance request. Mrs. Sessions asked if they would build all of the homes and then sell them. Mr. Bancroft said they would build homes as they are ordered.

Mr. Bancroft noted that this is a 30 million dollar project and will bring an additional \$560,000 in annual taxes to Franklin Township as opposed to the current \$8,000 per year that this property currently is taxed.

Mr. Martin asked if the price is for the land and the home. Mr. Bancroft said yes. Then Mr. Martin inquired about phase 1 and phase 2. Mr. Bancroft said phase 1 is a cul-de-sac off Newcomer Road consisting of 5-6 lots. The balance is phase 2. Mrs. Sessions asked what would happen if someone wants to build a home in phase 2. Mr. Bancroft said phase 2 will not even be platted until later. Mr. Bancroft said in phase 2 they hope to sell 28 lots per year. Mr. Martin inquired about sidewalks and street lighting. Mr. Wohlwend said there will be sidewalks on both sides and they absolutely will have street lighting. Mr. Martin asked if there will be access to the conservation areas to the residents for trails, etc. Mr. Bancroft said eventually there will be access for hiking.

Mr. Hansford said he would recommend that the Board table this hearing until next month to allow for proper notification of all neighboring residents. Then he opened the meeting to public comment.

Mr. Robert Burton of 4744 Newcomer Road was sworn in. He disagreed that property owners would not have an obstructed view. There is no tree line. Mr. Wohlwend said there is potentially a storm water area which may cause them to have to remove a minimal amount of vegetation. Mr. Burton thinks people on the north side will see the development.

Mrs. Gloria Rodgers of 4562 Newcomer Road said you cannot connect the storm water to storm sewer because it has nowhere to go. Mr. Wohlwend said it will be piped into open basins and drain slowly. There will be storm sewers for this. Mrs. Rogers said it will not be enough for 107 homes. Mr. Bancroft said every developer must work with the county Engineers for storm water. When plats are recorded, the HOA documents must include storm water fees by condition. Mrs. Rogers said you are already assessed storm water fees on your property taxes. Mr. Bancroft said the HOA will set aside a portion of the fee into a capital fund for storm water maintenance.

Mr. Barry Morris of 188 Spell Road was sworn in. He said this whole site is muck land. How can anyone build on muck? Mr. Bancroft said they have done borings and tests and they are able to know where to build. Mr. Morris said that 107 homes with two cars each equals up to 300 cars coming out on a blind spot hill. There are already traffic problems here.

Mrs. Cindy Lukens-Wagner of 4573 Newcomer Road was sworn in. The two or three retention basins will not control that water. It will be draining into her land. When the other development across the street went in it flooded her farm. The traffic study was done when school was out. The traffic on Newcomer Road is horrible. It is a narrow road and fire service is not adequate in this area.

Mr. Robert Burton said the last development floods his home also. His home and possessions have been flooded out and ruined twice after being assured that it would never happen. He thinks that most developers are just out for the money.

Mrs. Rodgers asked if there were going to be traffic lights installed. Mr. Wohlwend said there was not enough traffic.

Mr. Walt Shleper of 4825 Newcomer Road, Stow was sworn in. He was concerned about the downspouts being drained. This area never dries. His sump pump runs continuously. The open space is going to be bringing people into his back yard. They all had sand in their water when developers did the testing.

Mr. Burton asked if any of the Board members have ever gone to this area after it rains. All of the rain water goes to this lot. The prior celery farms are now wetlands.

Mr. David K. Schmader of 217 Johnson Road was sworn in. He is currently building on a 20 acre site and there is only one single area that is buildable. He supports development, but this area is all muck. If there is a 56 acre lake available in the land that you are going to donate to the conservation people for a tax write off, he wouldn't object, but this will flood his property.

Mrs. Rodgers said the lakes across the street are 30 feet deep and were built to help with drainage. Motorized pumps still must be used.

Mrs. Mary Organ of 5876 Horning Road Kent was sworn in. Her question was regarding the variance on the 50 ft. for the wetland buffer. Mr. Wohlwend said lot 35 has a 25 ft variance to the setback, lot 14 has a 35 foot variance, and lot 15 has a 35 foot variance.

Mrs. Cindy Lukens Wagner said the county has not cleaned the area creek since the early 1970's. The development will drain into the creek and then flood everybody.

Mr. Martin moved to continue this hearing for the Bancroft application until Monday, August 12, 2019 at 7:00 pm for the parcels located at 4713 Newcomer Road. Mr. Hansford seconded the motion. All Board members voted yes.

**7:45 Hearing:**

At 7:45 p.m. an application by Bob Caravona, 4700 S. McClintock Dr. Suite 160 Tempe AZ 85282 representing Meadowview Property LLC 6190 Cochran Rd. Suite A Solon OH 44139 for the property located at 2574 St. Rt. 59 Kent (parcel number 12-036-00-00-015-003) was heard for a variance to section 900.11.A.3.b.1 which requires no less than ten

per cent (10%) of the interior parking areas to be landscaped. The applicant proposes no interior landscaping.

Mr. Hansford asked who is here to speak to this tonight. Mr. Bob Caravona of 4700 S. McClintock Dr. Tempe AZ was sworn in representing the Hawkins Companies. The 0% landscaping is actually just terminology used in comparison of a parking island versus a parking peninsula. This is a peninsula, and they want it to look well and attractive. This site is at the corner of SR 59 and the Pebblebrook Apartment access road. They have single rows of parking that creates a peninsula. Sixty percent of the area surrounding the parking is green, which makes them think they meet the intent of the code. Mr. Abell is going to ask the Zoning Commission to review Mr. Caravona's rationale to further define parking areas in the zoning code. Mr. Hansford said the green grassy lot next to this is unbuildable.

Mr. Russell moved to grant a variance of the required no less than 10% interior landscaping which would allow the applicant to have zero interior landscaping. Mr. Moneypenny seconded the motion. All Board members voted yes. The variance is approved.

Mr. Hansford noted that there was a 30-day appeal period that would begin after the minutes of this meeting were journalized. The journalizing will occur at the next meeting of the Board of Zoning Appeals.

**Adjournment:** The meeting was adjourned at 9:02 pm

Respectfully submitted,

Jenny August  
Administrative Assistant  
Board of Zoning Appeals

Approved as submitted:

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Chairperson, David Hansford

Approved as amended:

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