

Franklin Township, Portage County
Board of Zoning Appeals
September 9, 2024

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

Mr. Money Penny 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 Michael Swartz, 1003 Ravenna Rd representing the property located at the same address (parcel number 12-079-00-00-034-000) was heard for a variance to sections 410.00 D. E2 and F1. The code does not permit privacy fences or a fence in the front yard to be over 4 feet in the R-1 zoning district. The applicant wishes to place a 70" privacy fence in his front yard.

Mr. Money Penny asked who is here to speak to this tonight. Mr. Michael Swartz of 1003 Ravenna Road was sworn in. He told the board that he moved here from Texas and bought the home sight unseen from a broker that provided a virtual tour. He constructed the fence and neglected to secure a zoning permit because there was just a lot of things going on and it was overlooked. Mr. Ciccozzi added that the fence exceeds the height limits, it is not 25% open to air and light, and part of the fence has the finished side facing in. The code requires the finished side facing out.

Mr. Money Penny addressed each variance separately. Regarding Section 410.00.D, Mr. Swartz said his intent is to finish both sides of the fence. He has the pickets in his garage. The township issued a stop work order so that is why some of it is not finished on both sides. If his variance request passes, he will finish both sides of the fence.

Regarding Section 410.00.E2 stating that the fence must be 25% open to air and light, Mr. Swartz said he has rescue dogs that go crazy when an animal or person is in sight. The solid fence is mostly for his dogs but for his own personal reasons of having Post Traumatic Stress Disorder from serving two terms in Iraq. He also likes his privacy.

Lastly, to address Section 410.00.F1 which states a front yard fence cannot exceed 4 feet. Mr. Swartz's fence is 70" in height all the way around. Mrs. Sessions asked why he needs his fence to be so high. Mr. Swartz says his dogs can jump a 4' fence. Mr. Abell asked how a front yard is defined. Mr. Ciccozzi said it is anything in front of the plane of the front of the house. If Mr. Swartz could move the fence back so it is behind the front of the house, it would be considered a side yard fence and within height limits at 70". The fence actually curves closer to the road as it goes westerly away from the house. Mr. Swartz said he needed to work around a few large trees in the front yard and also his new septic system is being installed there so he needs to avoid that area.

Mr. Money Penny did not need to open public comments as there were no others in attendance. He did, however, mention that a letter was submitted from one of the neighbors who could not attend. Mr. Martin noted that the neighbor was opposed and cited three reasons for his opposition; height, finished side facing in, and the set back violation. The neighbor also wrote they not pleased that Mr. Swartz did not secure a zoning permit which showed disregard for the law. Mr. Swartz said several of his neighbors have complimented him on the many updates he has made to the property.

Mr. Money Penny reviewed the Standards for an area variance with the board referring to all of the area variances associated with the fence:

A- yes, B- yes, C-no, D- no, E-no, F- yes, G- no.

Mrs. Sessions moved to retroactively grant the applicant a 22" variance to construct a fence in the front yard that is 70 inches in height. Mr. Abell seconded the motion. Mr. Hansford voted yes and all other board members voted no. The variance was denied. After discussion, Mr. Swartz said he will move the fence back so he is compliant.

Mr. Money Penny moved to retroactively allow the applicant to construct a fence that is zero percent open to air and light. Mr. Hansford seconded the motion. All board members voted yes. The variance was approved.

Mr. Money Penny 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. Abell moved to approve the minutes from the July 8, 2024 meeting with a second from Mr. Martin. Mr. Hansford abstained. All others voted yes. The meeting minutes were approved.

Next Meeting: The next meeting is scheduled for October 14, 2024 at 7:00 pm should any applications be submitted.

Adjournment:

The hearing was adjourned at 8:13 pm.

Respectfully submitted,

Jenny August, Secretary, Board of Zoning Appeals

Approved: _____ Chairman, Justin Money Penny