

Franklin Township, Portage County
Board of Zoning Appeals
November 13, 2023

Present: Chair Justin Moneyppenny, David Hansford, Marilyn Sessions, Sam Abell, and alternate Ron Goodspeed, Board Members; Joe Ciccozzi, Zoning Inspector; Jenny August, Secretary.

Mr. Moneyppenny 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 Mallory Fuchs 2227 Erie Street. Kent, OH 44240 representing the property at same location (parcel number 12-035-20-16-070-000) was heard for a variance to sections 405.06.A.5 of the Franklin Township Zoning code. The code states that an accessory structure cannot be located in the front yard. The applicant is requesting a variance to be able to create a garage addition in the front of the house.

Mr. Moneyppenny asked who was here to speak to this tonight. Mrs. Mallory and Mr. Joshua Fuchs were sworn in. Mrs. Fuchs said that they have followed zoning procedures for everything they have done, from the pool to the sunroom. This time they just want to put on a two-car garage.

Zoning Inspector Joe Ciccozzi said that after reviewing their application with Mr. Abell they determined that this could be considered a residential addition. It would require a 50' setback. The plans are showing a 48' setback, but Mr. Fuchs said he would comply with the code. Mr. Ciccozzi said their variance fee would be refunded.

Approval of Minutes:

Mrs. Sessions moved to accept the minutes from the May 8, 2023 meeting. Mr. Abell seconded the motion. All board members voted yes except Ron Goodspeed who abstained. The meeting minutes were approved.

Next Meeting: The next meeting is scheduled for Dec. 11, 2023 at 7:00 pm to consider any applications that may come in.

7:15 Hearing:

At 7:15 p.m. an application by Dan Barcikowski of MG Civil design located at 255 Park Place Chagrin Falls, OH 44022 representing Rob Benjamin of Heritage Development for the property located at 2346 State Route 59. Kent, OH 44240 (parcel number 12-019-00-00-002-000) was heard for a conditional use variance to section 404.05.C.3.a, which requires a 25-foot wetland buffer. The applicant is requesting four 15.5-foot variances allowing a 9.5-foot proposed wetland setback on sublots 7, 8, 9 and 29 of the Eagle Greens development.

Mr. Moneyppenny asked who is here to speak to this tonight? Mr. Dan Barcikowski of MG Civil Design, 255 Park Place in Chagrin Falls Ohio along with Cynthia Paschke of Land

Solutions, an environmental consulting company located at 34600 Chardon Rd. Willoughby Hills, Ohio were sworn in. Mr. Barcikowski reminded the Board that this development was known as "The Fairways" a year ago and the rezoning and the P.R.D. was approved. Final engineering began. That is when they discovered that they would either need to impact the wetlands or apply for a wetlands setback variance.

They renamed the development project "Eagle Greens". They do intend to impact the wetlands by 25 feet off of the back subplot. They realized that they would need to drain the golf course pond, which would require an easement. The easement cannot be in that buffer area, so that is the reason why we are requesting the variance. Wetland "C" is the Army Corp of Engineering jurisdiction. Ms. Paschke said there is another area that is an EPA jurisdiction, which is why they have two different permits going in. Mr. Moneyppenny asked if they have EPA approval. Ms. Paschke said they have a preliminary jurisdiction determination where the whole site has been evaluated. The boundaries have been approved as low-quality category 1 wetlands which require 25-foot buffers.

Mr. Goodspeed wanted to clarify that they just want to reduce the fill into the wetlands. Mr. Barcikowski said they can impact to a certain point, and then it can't be touched. Ms. Paschke said they will first try to avoid the wetlands. Second choice would be to minimize the impact so there is not as much fill. What is unavoidable, as in this case, would be to seek a permit and mitigate if needed. What happens is when there is a setback, you end up impacting into the wetlands more to create a non-wetland buffer, which is counterintuitive to the whole process, which is why they are requesting a variance. Reducing the buffer is not likely to be a negative impact on a low-quality category 1 wetland. Without the variance, we would have to impact more wetlands and basically create the buffer for the 25-foot setback.

Mr. Barcikowski said the permit application has been submitted to the Army Corps but it takes 3-4 months. If the variance is denied, they can always go back for a remodification. Mr. Abell noted that without the variance, they could not build lot 8. Ms. Paschke said they are seeking a permit for that lot. That wetland is federally regulated and less than 1/10 of an acre, which is minimal so it would be exempt from mitigation. The other two wetland areas are isolated and they would mitigate with the EPA. There are a few properties that have created wetlands for a wetland bank. The Army Corps looks at that and makes sure it is in the same watershed. The replacement ratio is 1-1, and only sold in 1/10-acre increments.

Mr. Goodspeed said if the variance is approved, you have to go back to them and they have to agree to the amount of fill? Ms. Paschke said yes, and this site plan offers the features to the Army Corp and the Ohio EPA. Mr. Goodspeed asked if there are different elevations to the wetlands, and if it could cause a potential flooding issue. Mr. Barcikowski said no, it would get built up. Lot 8 would drain to a rear yard storm sewer, and they would build 2-3 feet above the wetland. It would be a drop into the wetland. These wetlands are not actually getting that much wetland.

Mr. Ciccozzi said the BZA would not need to approve the layout since it was already approved a year ago.

Mr. Barcikowski said Wetland A is getting a little more than they realized. There is a catch basin across 59 that is sending a lot of drainage and they are hoping to re-route the water staying with the topography of the land. The plan has been submitted to the county and we are waiting on approval. They may not need to use it, but still want county approval. The county may want the easement to go all the way to the wetland. If so, he will use plan B, adding fill to the buffer to minimize the impact. If the buffer is created, the wetlands are untouched.

Mr. Moneypenny asked where the rerouted water goes. Mr. Barcikowski said the water goes into an existing pond, then overflows to the railroad ditch. Mrs. Sessions asked what impact the drainage will have on the back nine, which is property that is owned by someone else. Mr. Barcikowski said all of the water in the development drains into a detention pond and then slowly discharges into a stream which goes to the railroad tracks, and then into the big ponds.

Mr. Moneypenny moved to grant a variance that would allow 4 building lots (sublots 7,8,9, and 29) each a variance of 15.5 feet which would allow a 9.5 proposed wetland setback. Mr. Abell seconded the motion. Mr. Hansford, Mr. Goodspeed and Mr. Abell voted yes. Mrs. Sessions and Mr. Moneypenny voted no. The motion passes and the variance is approved.

Adjournment:

The hearing was adjourned at 8:09 pm.

Respectfully submitted,

Jenny August
Secretary, Board of Zoning Appeals

Approved as submitted:

Chairperson, Justin Moneypenny

Approved as amended:

Chairperson, Justin Moneypenny