

Franklin Township, Portage County
Board of Zoning Appeals
December 12, 2022

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

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. a continued hearing for an application from John Clark at 282 Kent Dr. Tallmadge, OH 44278 regarding the property located at 7598 Diagonal Rd, Kent, OH 44240 (parcel number 12-075-00-00-002-013) was heard for a variance to section 315.03 which requires a minimum of 50 feet of frontage for a single-family dwelling. The applicant wishes to construct a single-family dwelling with frontage on his private drive and not a street maintained to Portage County Subdivision Standards.

Mr. Hansford asked who is here to speak to this tonight. Attorney Michael David of 737 Bolivar Rd. Cleveland Ohio was sworn in representing Dr. John Clark of 282 Kent Drive Tallmadge Ohio for a variance request for the property located at 7598 Diagonal Road Kent. Dr. Clark owns three parcels of land; two of them are to the east of The Pines. The other parcel is on Diagonal Road. Of the two eastern parcels, Dr. Clark is currently building his home on the larger parcel, and would like to construct a home for his sister and brother-in-law on the smaller parcel. These lots are already larger than they are required to be. He plans to maintain the remaining areas of his property undisturbed. Lots may be as small as $\frac{1}{4}$ acre but he is not interested in doing that. He and the Clarks are working with the Pines One attorneys on ironing out the easement issues.

Attorney Scott Flynn of 220 Frances Drive Kent was sworn in representing the Pines One Association. He wants the board to understand where his clients are coming from. His clients have been intimidated by Dr. Clark since day one. There is a recorded easement that sets parameters between the parties. The attorneys can work out the details. He discussed some of Dr. Clark's letter that he sent to the Pines One Association. The Pines are concerned about the road being widened which would take out their front yards including landscaping and retaining walls. His clients would not oppose this variance if the board would agree to set a few conditions. First, that Dr. Clark does not widen the road, and that Dr. Clark pays his share of the road costs, and that Dr. Clark does not build a development.

Mrs. Sessions asked Attorney Flynn if the front yard areas are included in the property owners' deeds. Attorney Flynn said that the surveys show that those front yard areas do

encroach on Dr. Clark's roadway. Mrs. Sessions asked if Todd Peetz from Portage County Regional Planning stated that Dr. Clark can only have two houses. Attorney Flynn said Todd Peetz did not state that, but he did say there would be a host of issues if he put in more than two houses.

Mr. Money Penny asked Attorney Flynn to clarify if the property owners front yards encroach on Dr. Clark's property. Attorney Flynn said yes, per the surveys, all of the property owners front yards do encroach on Dr. Clark's property. Mr. Money Penny asked Attorney Flynn if someone gets a copy of the survey when they purchase a condo or home. Attorney Flynn said not always, but the mortgage company usually does. Mrs. Sessions said it seems fair to think that they should have known it was not their property. Attorney Flynn said not necessarily as there may have been an easement.

Mr. Abell said building the home is a permitted use and the permit has been issued. A second home is coming. Mr. Abell reviewed the powers and duties of the Board of Zoning Appeals. The BZA has no authority to set conditions on area variances, only conditional use variance requests. The board can only vote to approve or deny the variance.

Attorney David informed the board and the public that Dr. Clark has no intention of widening the road. Widening the road has nothing to do with the variance request. Dr. Clark received a threatening letter wanting him to pay 80% of the road expenses, and he wrote a letter in retaliation not on the advice of Counsel. We are currently working through everything. Attorney David has a copy of the map showing the property lines. The landscaping, flower beds, and retaining walls do encroach Dr. Clark's property.

Mr. Hansford opened the meeting to public comment.

Mary Lang of 1871 Pines Dr. Kent was sworn in. She said the original developer Manny Barenholtz developed and laid out the Pines. Surveyors now refer to The Pines as the wild west of developments. The developers did it way back when. In researching, she has found a lot of conflicting information. Change would affect property features. Some homes are actually within 2-3 feet of the road.

The board reviewed the Standards for an area variance: A-yes, B-no, C-no, D-no, E-yes, F-no, G-yes. Mr. Abell said he thinks this is a substantial variance and he thinks "B" should be yes.

Attorney Flynn told the board that his clients are willing to take Attorney David at his word and do not intend to oppose the variance request.

Mr. Moneypenny moved to allow the applicant to construct a single-family dwelling with frontage on his private drive and not a street maintained to Portage County Subdivision Standards. Mr. Hansford seconded the motion. Mr. Hansford called the vote. All Board members voted yes. The variance request 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.

7:15 Hearing:

At 7:15 p.m. an application by Diedre Pendleton at 3079 Meadowbrook Blvd. Cleveland Heights Ohio 44118 representing the property located at 6242 Lincoln Ave. Ravenna OH 44266 (parcel numbers 12-035-10-16-091-000 & 12-035-10-16-094-000) was heard for a variance to section 316.03. The zoning code requires a residential lot to be a minimum of 14,520 square feet in an R-2 district. The applicant is replating 6 lots into 2 that does not meet the square footage requirement. The applicant is requesting a 128 square foot variance for lot one and a 115 square foot variance for lot # 2 which both fall just short of the 14,520 square foot requirement.

Mr. Hansford asked who is here to speak to this tonight. Diedre Pendleton of 3079 Meadowbrook Blvd. Cleveland Heights Ohio was sworn in. This is her family home which she inherited in 2019 when her mother passed away. She has combined 6 lots into two lots. The family home is on one lot and is being rented out. She would like the second lot to be buildable if she should choose to build on it, or sell it to someone who wants to build on it.

Mr. Hansford opened the meeting to public comment. Mr. Christopher France of 6278 Lakeview Drive Ravenna was sworn in. These lots are connected to his back yard. He asks that the variance is denied. The lots are too small. The rental house gives them problems. It is a quiet community and we want families here, not renters. We want to tear our house down and rebuild. We don't want renters.

Mr. Lynn Frederick of 6225 Washington Street Ravenna said Lincoln St. is just behind him and Diedres family have been great neighbors. His questions are about utility hookups and where the lines go. He has concerns about the practicality of building there. There is a 40-foot front lot that nobody seems to know what to do with. We have never had a problem with the renters.

Mr. Hansford and the board reviewed the standards for a variance;
A-yes, B-no, C-no, D-no, E-yes, F-no, G-yes.

Mr. Abell said the lot combination is a good effort of moving closer to conformity.

Mr. Hansford moved to grant the applicant a 128 square foot variance for one lot and a 115 square foot variance for the second lot since both lots fall short of the 14,520 square foot requirement. Mr. Abell seconded the motion. Mr. Hansford, Mrs. Sessions, Mr. Abell, Mr. Martin voted yes. Mr. Moneypenny voted no. The variance passed.

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: Mrs. Sessions moved to accept the minutes from the November 14, 2022 meeting. Mr. Moneypenny seconded the motion. Mr. Hansford, Mr. Abell, Mrs. Sessions, Mr. Moneypenny and Mr. Goodspeed voted yes. Mr. Martin abstained. The meeting minutes were approved.

Next Meeting: The next meeting is scheduled for January 9, 2023 at 7:00 pm to consider any applications that may come in.

Adjournment:

The hearing was adjourned at 8:25 pm.

Respectfully submitted,

Jenny August
Secretary, Board of Zoning Appeals

Approved as submitted:

Chairperson, David Hansford

Approved as amended:

Chairperson, David Hansford