

Parkman Township Board of Zoning Appeals
Regular Meeting
August 14, 2018

Members present: Kathy Preston, Betty Jo Lengel, Cindy Gazley, Rich Hill, , Nancy Ferguson, Dale Komandt, (alternate), Henry Duchscherer, (alternate), and Jan Helt (Secretary)
Also in attendance: John Spelich (Zoning Inspector) Residents as shown on the sign in sheet

Kathy Preston (chairperson) called the meeting to order at 7:15pm. Ms. Preston introduced herself and had board members do the same. Ms. Preston reminded the public that they must sign the ledger if they wish to testify or ask questions during this meeting.

Ms. Preston explained the agenda of the meeting to all attending.

VARIANCE REQUEST # 2018-19030 - This application submitted by Scott Simms 19030 Nelson Ledge Road (Parkman Township), Garrettsville, Ohio 44231, is requesting a variance from the Parkman Township Zoning Resolution for property located at same address which shall be in accordance with all of the applicable regulations for the District and the following regulations: ARTICLE IV Section 402.2-G

Ms. Preston administered the oath of truthfulness to all persons in attendance who wished to testify or ask a question.

Applicant Explanation for requesting variance to Parkman Township Zoning Resolution:

Mr. Simms stated that his mother moved out of her home and needed to store some of her belongings. He was in the process of remodeling his home so he had no room. He explained he looked into different storage options and decided a shipping container would work out for him. Mr. Simms stated he looked at Model Zoning Book and saw nothing stating that shipping containers are not allowed. So he decided to purchase a shipping container. He said once he finishes the remodeling of his home and is able to get his mother's belongs out, he wants to turn the shipping container into a wood shed. He said he intends to relocate the shipping container behind the dirt mound on his property so that no one would be able to see it from the front. He said he understands why the Township wouldn't want a shipping container on the front lawn. He also said he would paint it and put a roof on it if we wanted him to.

Ms. Preston closed that portion of the meeting and made the motion to open the public portion of the meeting.

Open floor to Public.

Ms. Simms stated that they need the shipping container to get their house done and move furnishings back into the house. They have been working really hard to get things done. It has taken longer than they thought it would.

Ms. Jacobs said the Simms property has been changing for years. The shipping container cost \$3,000 and he moved his mother's things into the container. She had to be out in 30 days and it was two weeks before Christmas. Ms. Jacobs asked about the container at the Post House. Ms. Jacobs said Mr. Simms had no choice. His circumstances are why he had to do it. Ms. Jacobs stated that Dave Dietrich said there is no definition on the list.

Ms. Wells stated that they are neighbors and there is no way you can see the container from her house and she has no objection to it. She can't even see it and it doesn't bother her at all.

Ms. Barnett stated she lives 2 doors down from Mr. Simms and has no objection to the container being on his property.

Ms. Harris, another neighbor, stated that she also has no problem with the shipping container being on his property.

There being no further comment from the public, **Ms. Preston** made the motion to close the public portion of the hearing.

Ms. Lengel made the motion and **Mr. Hill** seconded to grant the variance.

Board Members Questions/comments to Applicant:

Mr. Duchscherer asked Mr. Simms where the shipping container was made. Mr. Simms did not know for sure, he purchased it in Cleveland. The BBS MEMO states these shipping containers manufactured outside the U.S. that have wood floor decks are treated with highly toxic insecticides and are difficult to remove without damaging the base structural materials.

Mr. Hill stated that if the shipping container was not adjusted or changed, or modified in any way, the statement on the wood floor deck would not apply.

Ms. Ferguson stated that Mr. Hill was missing the point, that Mr. Simms wants to use it as an accessory building, so it would apply.

Mr. Hill stated that it is not an accessory building and if it is not listed it is not allowed.

Mr. Spelich stated that Len Hall (chairperson for Zoning Commission) said if it is not listed as permissible it is not an allowable use. **Mr. Spelich** also stated that a building used for agriculture also needs to get a permit from the township.

Ms. Ferguson asked how big the container is. Mr. Simms stated that the container is 8x10.

Ms. Gazley asked how much of the land is wooded. Mr. Simms stated 10%. She asked Mr. Simms where he is going to get the firewood. He stated that he gets the bulk of his wood from Mr. Gates property.

Ms. Ferguson asked Mr. Simms where he keeps his fire wood now. He said in a small open area under a sort of lean to with a roof.

Mr. Simms was asked if his mother has moved anything out yet and he said no. She has moved but she does not have room where she lives. He stated she has a boat, fishing equipment etc.

Ms. Lengel stated that a letter sent by Len Hall to Dave Dietrich states with a use variance you have to have a hardship on your property, and that Mr. Dietrich did not see it on a list of allowable uses in Parkman.

Mr. Simms stated that he looked at the county zoning model and that he believed that if something was not expressly forbidden in a zoning resolution it is permitted.

Ms. Preston stated that per the zoning resolution the opposite is true, citing section 401.0A.

Mr. Spelich stated there are two shipping containers in Parkman, one is at the Post House, they are in commercial areas, which is allowed and are not permanent.

Ms. Ferguson asked Mr. Simms what is underneath his shipping container. Mr. Simms stated he has cinder block underneath his container. Ms. Ferguson asked what kind of doors are on his shipping container. Mr. Simms stated he has double doors and the building is about 10 feet high with the cinder blocks.

Ms. Preston asked if it is made out of corrugated steel. Mr. Simms stated it was.

Ms. Gazley asked Mr. Simms why he didn't rent a storage unit. Mr. Simms said he looked at storage units but rejected that option.

Ms. Ferguson said Mr. Simms stated that he did not know where the container was from so if he uses it as an accessory building, whether it is modified or not, the wood floor could still present a problem. If you store your wood in there and then burn it in your home it could be a danger to you and the neighbors.

Ms. Lengel asked Mr. Simms if the garage is separate from the house. Mr. Simms said yes it is. Mr. Simms has 2.85 acres which allows two 1500 foot buildings. Mr. Simms stated that if he would have bought a 20 foot shipping container he wouldn't have any problem it would fall under square footage.

Mr. Hill stated it is a shipping container not an accessory building.

Mr. Simms said in Chicago they put windows in them and do business from them.

Ms. Ferguson stated that he would be taking a chance using a shipping container; it could be toxic to Mr. Simms and his neighbors. It could be highly toxic if he plans on storing wood in it.

Ms. Lengel asked about Mr. Simms hardship. Mr. Simms said he already paid \$3,000 for the shipping container to start with. He said he looked and saw nothing that says you can't have it.

Ms. Lengel read from the Ohio Rural Zoning Handbook ; “ The courts have ruled that the required use must remove all profitable use from the land, or in other words, the applicant's supposed hardship cannot be one of economics alone.”

Ms. Ferguson stated that with a Use Variance – if you sell the property the use variance goes with the land, and in her, opinion a use variance is spot zoning.

Mr. Simms asked “what is the reluctance to have it if it passes as an accessory building, inspections etc. If I build a pole barn and it passes inspection what is the difference. Why can't it be under agriculture if it is not grown on your property? What if I have horses and buy hay to store for my horses?” A discussion in sued as to what constitutes agriculture use.

Ms. Lengel stated we don't make the law we have to uphold it. Hardship has to be unique to the property. This is the state law.

Mrs. Simms said we have been working really hard. Right now we have nowhere to store our stuff. Mr. Simms asked if he put this shipping container on a trailer so it's moveable would that help?

Mr. Spelich advised that containers on trailers are not permitted.

Ms. Gazley suggested we move on.

The board went over the standard for a use variance.

Standards for a “USE” variance

a. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district.

No, it is not unique.

b. The hardship condition is not created by actions of the applicant.

No, the hardship was created by the applicant.

c. The granting of the variance will not adversely affect the rights of adjacent owners.

Adjacent homeowners who spoke at the hearing did not object to having the shipping container on the Simms property. Their rights, however, were not addressed.

d. The granting of the variance will not adversely affect the public health, safety or general welfare.

Unknown.

e. The variance will be consistent with the general spirit and intent of the zoning resolution.

No, shipping containers are not in zoning resolution.

f. The variance sought is the minimum which will afford relief to the applicant.

Yes.

g. There is no other economic use which is permitted in the zoning district.

No, there is other economic use.

h. Such other criteria which the board believes relates to determining whether the zoning regulation is equitable.

Rejected by Zoning Commission to add shipping containers as a permitted structure to Parkman Township Zoning.

Ms. Preston closes the board discussion.

Ms. Preston stated there is a motion and second on the floor to grant the variance:

Roll Call:

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|----------------------|-----------|-----------------------|-----------|
| Kathy Preston | NO | Nancy Ferguson | NO |
| Jo Lengel | NO | Cindy Gazley | NO |
| Rich Hill | NO | | |

Explanation of vote:

Ms. Preston stated that the variance has been denied. Ms. Preston advised Mr. Simms that he is able to appeal the Board's decision through the Geauga County Court of Common Pleas.

Old Business:

Everyone went over Mr. Spelich bi-monthly reports.

Next meeting: Ms. Preston announced that the next meeting of the Parkman Board of Zoning Appeals will be September 11, 2018 at 7:00p.m.

Adjournment:

Chairperson asked for a motion to adjourn . Ms. Lengel motioned, Mr. Komandt seconded. The motion passed unanimously. The meeting adjourned at 8:40 p.m.

Respectfully Submitted by Jan Helt BZA Secretary, _____ Date_____

Chairperson, Kathy Preston _____ Date_____

