

**PARKMAN TOWNSHIP BOARD OF ZONING APPEALS**

**Regular Meeting**

**Tuesday, November 13, 2012**

Members present: Cindy Gazley, Jo Lengel, Rich Hill, Jon Ferguson, Lucinda Sharp-Gates, and Jerry Jacobs

Members not present: none

Others present: William P. Weaver, Jacob J. Miller, Melvin B. Byler, Mark Byler, and John Spelich-Zoning Inspector

The meeting was called to order by Cindy Gazley at 7:30 p.m.

Cindy Gazley explained the format of the meeting and then gave an overview of how the meeting would be run. Everyone was asked to sign in on the sheet provided.

Jon Ferguson made a motion to dispense with the reading of the minutes of the October 9, 2012 regular meeting until after the appeal is heard. Lucinda Sharp-Gates seconded the motion. Motion passed unanimously.

Cindy Gazley administered Oath of Truthfulness to all present. Sworn in witnesses: William P. Weaver, Jacob J. Miller, and John Spelich.

There are two area variance permit applications and one use permit application to be addressed by the Board at this meeting:

- **Number-2012-16550(2)**
- **Number-2012-17171**
- **Number-2012-16496**

Appeal 2012-16550(2) was called.

**Applicant Explanation for requesting variance to Parkman Township Zoning Resolution.**

This application submitted by William Weaver, 16550 Hosmer Road (Parkman Township), Middlefield, Ohio is requesting an area variance from the Parkman Township Zoning Resolution for property located at 16550 Hosmer Road, Parkman Township. After a survey of his property they found his south property line is on his neighbor's driveway. Mr. Weaver is seeking a variance for his property. Mr. Weaver said the property has been this way for about 40 years.

Cindy Gazley asked for any other information. There was none. Cindy Gazley closed that portion of the meeting.

Cindy Gazley asked if there was a motion to grant the variance. Jo Lengel moved and Lucinda Sharp-Gates seconded the motion to grant the variance.

#### **Open Floor to Public**

Mr. Spelich said Mr. Weaver had a hearing in August in which the other side of his property line was addressed. He said on Hosmer Road some of the older surveys in the 1950's were not done correctly. When they are surveyed now, they can make properties out of compliance with the Zoning Ordinance.

Cindy Gazley asked for any other questions from the public. There were none. Cindy Gazley closed that portion of the meeting.

#### **Board Members Questions/Comments to Applicant.**

Cindy Gazley asked the board members if they had any questions. Jo Lengel said that she was unclear about what Mr. Weaver was requesting. She asked him if he would like to leave the property as it is. She suggested that one way the problem could be obviated was if Mr. Weaver sell or give the strip of land to his neighbor that the driveway is on with a land deed. This was discussed.

Cindy Gazley asked if there were any more questions. There were none. Cindy Gazley closed that portion of the meeting.

#### **Board Members Discussion/Deliberation.**

Cindy Gazley led the board in considering the following issues.

- a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance: yes
- b. Whether the variance is substantial: no
- c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance: no
- d. Whether the variance would adversely affect the delivery of governmental services: no
- e. Whether the property owner purchased the property with the knowledge of the zoning restriction: no
- f. Whether the property owner's predicament feasibly can be obviated through some method other than a variance: yes
- g. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: yes
- h. Such other criteria which relate to determining whether the zoning regulation is equitable: It is equitable to grant variance because the new survey created a "red tape" situation and the actual area of the property has not changed, rather the property lines were shifted due to the survey.

**Approve the roll call as to whether to approve the variance.**

LUCINDA SHARP-GATES	Yes
CINDY GAZLEY	Yes
RICH HILL	Yes
JON FERGUSON	Yes
JO LENGEL	Yes

Cindy Gazley stated that a letter will be mailed to the applicant within 10 days with the decision results of the appeal. This decision may be appealed with the Geauga County Court of Common Pleas within 30 days.

The Board decided to complete the Finding of Facts at the end of the meeting.

Appeal 2012-17171 was called.

Cindy Gazley administered the Oath of Truthfulness to all present.

Sworn in witnesses: Mark Byler, Melvin Byler and John Spelich

**Applicant Explanation for requesting variance to Parkman Township Zoning Resolution.**

This application, submitted by Mark Byler, of 17171 Farmington Road (Parkman Township), West Farmington, Ohio is requesting an area variance to move property lines. No buildings are to change. In 2003 Mr. Melvin Byler split his land, approximately 17 acres down the middle. At this time, he would like to change the property lines to change a 60 foot by 72 foot agricultural building from a rear lot to a front lot. It was re-surveyed and required moving property lines.

Cindy Gazley asked for any other information. There was none. Cindy Gazley closed that portion of the meeting.

Cindy Gazley asked for a motion to grant the variance. Jon Ferguson moved and Lucinda Sharp-Gates seconded the motion to grant the variance.

**Open Floor to Public**

Cindy Gazley asked for any other questions. There were none. Cindy Gazley closed that portion of the meeting.

**Board Members Questions/Comments to Applicant.**

Cindy Gazley asked the board members if they had any questions. Jo Lengel asked about the driveway that the lot would use. The driveway is shared with Pine Ridge School. Mr. Spelich said each lot is required to have its own driveway and the school plans on putting in its own drive. The driveway situation is not a part of this appeal. Mr. Hill noted that the shop building would be 16 feet off the property line and 25 feet is required by Parkman Zoning Ordinance.

Cindy Gazley asked if there were any other questions. There were none. Cindy Gazley closed that portion of the meeting.

**Board Members Discussion/Deliberation.**

Cindy Gazley led the Board in considering the following issues.

- a. Whether the property in question will yield a reasonably return or whether there can be any beneficial use of the property without the variance: yes
- b. Whether the variance is substantial: no
- c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance: no
- d. Whether the variance would adversely affect the delivery of governmental services: no
- e. Whether the property owner purchased the property with the knowledge of the zoning restriction: yes
- f. Whether the property owner’s predicament feasibly can be obviated through some method other than a variance: Mr. Hill suggested using the other side of the property for the driveway. The applicant stated that the physical characteristics of the land would prohibit this. Jerry Jacobs said it could cause a safety concern.
- g. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: yes
- h. Such other criteria which relate to determining whether the zoning regulation is equitable: No other criteria.

**Approve the roll call as to whether to approve the variance.**

LUCINDA SHARP-GATES	Yes
CINDY GAZLEY	Yes
RICH HILL	Yes
JON FERGUSON	Yes
JO LENGEL	Yes

Cindy Gazley stated that a letter will be mailed to the applicant within 10 days with the decision results of the appeal. This decision may be appealed with the Geauga County Court of Common Pleas within 30 days.

The Board decided to complete the Finding of Facts at the end of the meeting.

Appeal 2012-16496 was called.

**Applicant Explanation for requesting variance to Parkman Township Zoning resolution.**

The applicant was not present. Cindy Gazley closed that portion of the meeting.

### **Open Floor to Public.**

There were no property owners present to give testimony. Cindy Gazley closed that portion of the meeting.

Cindy Gazley asked the board if they would like to continue since the applicant was not present. It was decided they would try to continue at this time. Three members of the board, Jerry Jacobs, Lucinda Sharp-Gates, and Rich Hill recused themselves because they do business with the appellant.

Cindy Gazley asked if there was a motion to grant the variance. Jo Lengel moved and Jon Ferguson seconded the motion to grant the variance.

### **Board Members Questions/Comments to Applicant.**

The board asked Mr. Spelich to explain the application for the variance. The application submitted by Ben Byler of 16496 Nash Road (Parkman Township) Middlefield, Ohio is requesting a use variance from the Parkman Township Resolution to add more warehouse for feed and animal health and to keep farm seed separate from organic farm seed. Mr. Spelich told the board in April of this year he had issued a stop work order for a building going up on Mr. Bylers property. The building was an increase of 1920 square foot addition. He said the appellant owns around 5 acres of property and is over his allowed accessory building square footage. He is out of compliance by 7000 square feet. He said he has an agricultural barn to house horse and supply and a home business with most of the seed and feed he sells trucked in, not produced on the property. In 2003 there was a variance issued on June 17, for direct sales, an allowed home occupation. Mr. Spelich had Rebecca Schlag-Assistant County Prosecutor visit the property with him to get her opinion.

Jon Ferguson expressed concerns that Mr. Byler does not meet the requirements of a home occupation. He also noted that Mr. Byler's accessory buildings are larger than what Zoning Ordinance allows. It was unclear if Mr. Byler was asking for more square footage-an area variance, or if he is asking for a use variance. It was decided that the board did not want to make a decision on something when they were not clear on what the appellant was asking for and because he was not in attendance could not ask him. Cindy Gazley asked for a motion to table the appeal to be heard at a later date. Lucinda Sharp-Gates moved and Jo Lengel seconded the motion to table 2012-16496. Motion carried unanimously.

Cindy Gazley will ask Rebecca Schlag to come to the December, 11 2012 Board of Zoning Appeals meeting. Mr. Spelich will contact Mr. Byler for clarification of his appeal request. The board will try to hear the appeal in January after they have obtained further information.

### **Old Business**

Jo Lengel made a motion to approve the minutes of the October 9, 2012 regular meeting. The motion was seconded by Jon Ferguson. The motion passed unanimously.

Cindy Gazley asked about the Zoning Ordinance. Renee Patry explained that there is a new amendment that will take effect November 15, 2012 and after it is effective have to be changed in the Zoning Ordinance books. There was concern about the books being updated properly. Mr. Hill suggested he would prefer a computer version to a hard copy. The board also would like the new updated version on the web site.

Cindy Gazley asked if the BZA minutes have been posted on the web site. Renee Patry has posted the August 14, 2012 minutes that were approved at the last meeting.

Cindy Gazley asked John Spelich the status of Parkman Auto. He said he has issued a permit for renovation of the front of the building. The owners have filled out a pre-application for a Conditional Use permit and he is waiting for final paperwork and fees. He has asked them to remove all the junk cars in the back of the property. He said they may also need a permit for signs.

Jerry Jacobs asked Mr. Spelich to send a letter to Marty Roach about a burnt out building near his property.

Cindy Gazley will be attending the Zoning and Planning Workshop on November 16, 2012. None of the other members were able to attend due to their schedules.

### **New Business**

None

### **Finding of Facts for Variance Request 2012-16550(2)**

The committee reviewed the facts in regard to the appeal:

- a. There could be a yield of reasonable return and beneficial use of the property without the variance.
- b. The variance is not substantial.
- c. The essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the variance.
- d. The variance would not adversely affect the delivery of governmental services.
- e. The property owner did not purchase the property with the knowledge of the zoning restriction.
- f. The property owner's predicament feasibly can be obviated through some method other than a variance.
- g. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- h. It would be equitable to grant the variance because the situation created a "red tape" situation because of property line shift after a survey.

Jo Lengel made a motion to approve the finding of facts for the appeal, and Lucinda Sharp-Gates seconded the motion.

### **Roll call to approve the Finding of Facts**

CINDY GAZLEY                      Yes

LUCINDA SHARP-GATES Yes

RICH HALL Yes

JON FERGUSON Yes

JO LENGEL Yes

**Finding of Facts for Variance Request 2012-17171**

The committee reviewed the facts in regard to the appeal:

- a. The property in question will yield a reasonable return and there can be beneficial use of the property without the variance.
- b. The variance is not substantial.
- c. The essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the variance.
- d. The variance would not adversely affect the delivery of governmental services.
- e. The property owner purchased the property with the knowledge of the zoning restriction.
- f. The property owner's predicament feasibly cannot be obviated through some method other than a variance.
- g. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- h. There are no other criteria to relate to determining whether the zoning regulation is equitable.

Jo Lengel moved and Jon Ferguson seconded a motion to approve the finding of facts for the appeal.

**Roll Call to Approve the Finding of Facts**

CINDY GAZLEY Yes

LUCINDA SHARP-GATES Yes

RICH HILL Yes

JON FERGUSON Yes

JO LENGEL Yes

There was a motion to adjourn the meeting by Lucinda Sharp-Gates and seconded by Jerry Jacobs. The meeting was adjourned at 9:30 p.m. Motion carried unanimously. The next meeting will be December 11, 2012.

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Renee Patry, Secretary