

PARKMAN TOWNSHIP BOARD OF ZONING APPEALS  
Regular Meeting  
Tuesday February 9, 2016

Members present: Cindy Gazley, Rich Hill, Betty Jo Lengel, Kathy Preston, Nancy Ferguson, and Jan Helt (Secretary)

Also in attendance: John Spelich (Zoning Inspector) Residents as shown on the sign in sheet

Dale Komandt and Lucinda Sharp-Gates were absent with apologies.

Meeting was called to order by **Ms. Gazley at 7:30 p.m.**

**VARIANCE REQUEST: #2016-16507 for John Mark Miller 16507 Bundysburg Road.**  
Request for an area variance for a building in violation of section 402.6 Minimum Yards B. The minimum yards; 1. Front Yard 75 feet from the road right-of-way 2. Each side yard: 25 feet.

Ms. Gazley introduced herself and had all the Board members do the same. Ms. Gazley gave the Oath of Truthfulness to all persons in attendance that planned on providing testimony at this hearing, including the Applicant and Mr. Spelich, ZI. Ms. Gazley explained the agenda of the meeting for all attending. Ms. Gazley stated that the procedure is to go through the questions which are the factors which must be considered by the BZA in deciding on a variance. Those factors are the same questions as Mr. John Mark Miller answered on his application for this variance.

Ms. Helt stated that the legal notice was published in the Maple Leaf and all letters mailed to adjoining property owners.

Ms. Gazley asked Mr. Spelich, Zoning Inspector, what the variance request was; from his perspective. Mr. Spelich stated that Mr. John Mark Miller came to him a few months ago and told him he purchased land that had a shed too close to the property line on Mr. Miller's property. Mr. Spelich explained that when Mr. Miller made a change to his lot (lot split) all current zoning rules and regulations became effective, although the property was "grandfathered" prior to the lot split. Mr. Spelich showed everyone on the map where the shed was located on Mr. Miller's land shown as Parcel # 1. Mr. Spelich said Parcel # 2 belongs to Mr. Kurtz. Mr. Spelich anticipates a variance hearing related to Mr. Kurtz's property next month. Mr. Spelich told him he needed a variance for the one shop that was not agriculture. Mr. John Mark Miller filled out the variance application and paid his fee of \$250.00.

Mr. Miller stated that Dan Hershberger owned the property before he did (22 acres). Mr. Miller attempted to split the back lot. He stated he can't transfer the property to his name unless he gets the area variance. Mr. Miller said that he thought that the shed was built in the 1800's and it is a very old building. Mr. Miller stated because of the lot split he needs the area variance; without the lot split he can't afford to purchase the property.

Ms. Gazley asked if there was anything else, closed that portion of the meeting.

Ms. Lengel asked if the 200 foot frontage applies to all land. The answer is yes.

**Board Members Questions/comments to the applicant:**

Ms. Ferguson asked if the building was a block building, or if just a piece of it was block; perhaps he could remove the smaller side part on the building then it might be in compliance with side yard of 25 feet. Mr. Hill observed that would not resolve the problem and applicant would still not be in compliance.

Ms. Lengel said that she felt the house on the property not only violates the side yard 25 feet but also the front yard Section 402.6. Front Yard 75 feet from the right-of-way.

Mr. Hill asked Mr. Miller if he made hay on the land. He stated that he does not now but he intends to farm it someday.

Ms. Ferguson asked how much of the building is cement blocks. Mr. Miller said the building has 5 feet of cement blocks.

Ms. Preston asked what type of fence Mr. Miller had around the property. Mr. Miller stated that it is barbed wire.

Ms. Lengel asked how wide and how long the building is. Mr. Miller stated that it wasn't exactly sure but he thought it was 30' X 60' maybe 25'x60'. Ms. Ferguson asked Mr. Miller if he had chickens in the building. Mr. Miller said no not at this time. Ms. Preston stated with those dimensions it is a fairly large size building.

Ms. Lengel felt we should amend Mr. Miller's application to include the 75 feet for the house from the right- of-way. Ms. .Gazley wondered if she remembered there was a rule about how to measure corner property setbacks, in that as long as one corner is 75 foot that is all you need but, she was not positive. Ms. Lengel felt the shed also violates the 75 foot frontage as well as the 25 foot side yard.

Mr. Miller asked about a housing development; how do they "get away with it." Ms. Ferguson said they do not violate anything because they are under a different zoning code set up just for a housing development.

Mr. Spelich explained to Mr. Miller again that once you change your property "footprint" then you have to abide by current rules and regulations.

Mr. Hill stated that Section 402.10 N # 4: The minimum yards for a utility building shall be C. each side 10 feet. Ms. Lengel said it does not apply to Mr. Miller's shed the maximum floor area of a utility building is 200 square feet.

Ms. Lengel said she can't see tearing the building down, it has been there a very long time. Mr. Hill stated he does not see anything negative about leaving the building on the property. Ms. Ferguson stated there is not another building back to back on the adjoining property, and there is no issue with mowing grass or maintenance of the building. There are no safety issues either.

Ms. Preston felt it is more about the lot split which is definitely in the spirit of zoning.

Ms. Lengel stated that she feels that including the 75 foot frontage for the house and the shed in the variance is the correct thing to do. Mr. Miller or anyone who may purchase the property in the future will not have to worry about it.

Ms. Gazley asked the board if there were any other questions. The answer was no. Ms. Gazley closed that portion of the meeting.

The Board reviewed the following factors:

- 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, it could be used for pasture. However, the applicant would not be able to split the lot and as a result he would not be able to afford the land.**
- b. Whether the variance is substantial. **Yes, the shed is 5 foot off of the property line and it should be 25 feet.**
- 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, the shed has been there up to this time.**
- d. Whether the variance would adversely affect the delivery of the government services. **No, it will not.**
- e. Whether the property owner purchased the property with the knowledge of the zoning restriction. **Yes, Mr. Miller stated he knew it might be a problem.**
- f. Whether the property owner's predicament feasible can be obviated through some method other than a variance. **Yes, it could be torn down. Mr. Miller said he does store his tools and wood in it. Maybe he will put chickens in there someday.**
- g. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. **Yes, Mr. Hill stated considering it is a 100 year old estate.**

Ms. Gazley asked for any other questions or comments; closed that portion of the meeting.

Ms. Preston made a motion to approve Variance # 2016-16507 as amended, to include the shed and the house- Section 402.6 B. The minimum yards for all accessory buildings, structures, and uses shall be as follows:

1. Front yard: 75 feet from the road right- of- way.
2. Each side yard 25 feet shed only.

Ms. Lengel seconded and upon roll call the vote was Ms. Gazley – yes, Mr. Hill – Yes, Ms. Lengel – yes, Ms. Preston – yes, Ms. Ferguson – yes, and the motion passed unanimously.

Variance # 2016-16507 was granted as amended.

**Finding of the fact # 2016-16507** – Ms. Gazley moved to approve the Findings of Fact for Variance # 2016-16507 John Mark Miller as presented, Ms. Lengel seconded and upon roll call the vote was Ms. Gazley – Yes, Mr. Hill – Yes, Ms. Lengel – Yes, Ms. Preston – Yes, Ms. Ferguson – Yes, and the motion passed unanimously.

Ms. Gazley advised applicant Mr. John Mark Miller that the variance has been granted and that he or any other party has 30 days to appeal the decision. Decision Forms would be mailed within the next 10 days.

Ms. Gazley told Mr. John Mark Miller that his portion of the meeting was done and he was welcome to stay for the rest of the meeting if he wished.

#### **Other Business:**

Ms. Gazley asked Mr. Spelich if he had any updates. Mr. Spelich gave his update on what he has pending, and informed BZA there are 2 variances planned for the March 8, 2016 meeting.

Ms. Lengel asked Mr. Spelich if he had gotten in touch with the EPA about the tires being thrown in the Grand River as discussed by the applicant last month. Mr. Spelich stated that he had not had time but he will do so. Mr. Spelich stated that Parkman Auto is gone, moved out. There are 5 or 6 cars left they will be removed soon. Mr. Spelich has been in touch with Parkman Auto and he will be watching that situation.

Ms. Helt brought up the Tiny House movement and the fact that someone came to zoning to ask about the possibility of a tiny house. He did not have any plans or ideas yet on what he was doing, he was just asking. Mr. Spelich told him we would have to see plans etc. first before we could answer his questions. The board continued to discuss the issues with Tiny Houses. Tiny Houses are heated by propane and they also have compost toilets in them. They are usually on wheels and are pulled with your truck like a mobile home. We do not allow Trailers as a home in Parkman Township. The gentleman who asked about the tiny homes has never come back.

Ms. Helt stated that everyone received a key in their packet for the mail box that is outside the zoning office. From now on packets can be picked up anytime. Members will receive an e-mail letting them know their packets are ready. We thank Trustee Rodger Anderson for his diligence in making this a reality.

Ms. Preston asked what happens when all 5 members are present at the meeting plus the 2 alternates. Ms. Ferguson stated the alternates are allowed to participate and ask questions etc. but they can't vote. They can only vote when a member is absent.

Mr. Hill informed everyone for future reference in a commercial district a building can be up to 40% of the size of the property. Mr. Rod Zeigler had 10 acres.

Ms. Gazley will check with the County Prosecutor on whether we can amend a zoning violation which forms the basis of a variance to an application during a hearing. It has happened twice now (January, 2016 and February, 2016) and we want to be sure that we can amend the application if needed.

**Minutes of August 11, 2015** - were approved as amended.

**Minutes of January 12, 2016** – were approved as amended.

**Adjournment:**

Ms. Lengel made a motion to adjourn, Mr. Hill seconded, the motion passed unanimously. The meeting adjourned at 9:00 p.m.

Respectfully Submitted by Jan Helt BZA Secretary, \_\_\_\_\_ Date \_\_\_\_\_

Chairperson, Cindy Gazley \_\_\_\_\_ Date \_\_\_\_\_