

PARKMAN TOWNSHIP BOARD OF ZONING APPEALS
Regular Meeting
Tuesday January 12, 2016

Members present: Cindy Gazley, Rich Hill, Betty Jo Lengel, Kathy Preston, Lucinda Sharp-Gates, Nancy Ferguson, Dale Komandt and Jan Helt (Secretary)

Also in attendance: John Spelich (Zoning Inspector) Residents as shown

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

New Business:

Ms. Gazley asked the Board if they wanted to elect a chairperson first before proceeding with the hearing, everyone agreed. Ms. Gazley called for a nomination from the floor. A motion was made by Ms. Lengel and Ms. Sharp-Gates seconded to reelect Ms. Gazley as our Chairperson for the Board of Zoning Appeals for 2016. Motion passed unanimously.

Approval of Minutes:

Ms. Lengel moved to waive the reading of the minutes and approval portion of the meeting until after the appeal had been heard. Ms. Ferguson seconded, and the motion passed unanimously.

VARIANCE REQUEST: #2015-15985 for Rod Zeigler 15985 Main Market Road.

Ms. Gazley introduced herself and asked Mr. Zeigler if he knew everyone else on the board. Mr. Zeigler indicated he knew everyone except Ms. Preston. Ms. Preston introduced herself to Mr. Zeigler. Ms. Gazley reminded the public that they must sign the ledger being circulated if they wish to testify or ask questions during the course of the meeting.

Request for a variance for a proposed 4000 square foot building in violation of section 402.2 Minimum Yards is needed. B. The minimum yards; 1. Front Yard 75 feet from the road right-of-way 2. Each side yard: 25 feet.

Ms. Gazley asked Mr. Spelich, Zoning Inspector, what the variance request was, from his perspective. Mr. Spelich stated that Mr. Zeigler was requesting a variance for a 4,000 square foot accessory building larger than what is allowed in our zoning regulations. Mr. Zeigler has 10.6 acres which allows two 2500 square ft. buildings. Mr. Spelich suggested he build two buildings, but Mr. Zeigler felt it would cost too much money to build 2 separate buildings. The building would be in the middle of his 10 acre lot. Mr. Zeigler filled out the paperwork and paid his fee of \$250.00.

Ms. Gazley stated to Mr. Zeigler she presumed that was a fair estimation of his request for a variance. Mr. Zeigler indicated it was. Ms. Gazley told Mr. Zeigler that the board had specific elements that they must consider for area variances and the answers to those elements (located on the application he completed) would be the criteria we must go by.

Ms. Gazley gave the Oath of Truthfulness to those interested in providing information to the BZA tonight: Rod Zeigler and Anthony Ging.

Applicant Explanation for requesting variance to Parkman Township Zoning Resolution:

Ms. Gazley asked the appellant Rod Zeigler to explain why he wanted a variance to the Parkman Township Resolution. Mr. Zeigler stated that he wants to put up a storage building for topsoil to keep it dry. Right now he covers the soil with tarp but he still has to resift the topsoil if it gets wet. The bottom layer he always loses because it is too wet. He feels this canvas building will be better for his soil and will present itself a lot better from the road than the tarp. He says he is constantly losing topsoil storing it outside. He needs this canvas/mesh building so he can preserve his soil from runoff and the weather.

Board Members Questions/comments to the applicant:

Ms. Sharp-Gates asked how he arrived at the size of the building. Mr. Zeigler stated what he has now is not enough to keep his soil dry. He wants it big enough to fit all his topsoil in. The building comes in standard sizes.

Ms. Gazley asked what the height of the building is. Mr. Zeigler stated the height of the building is 31'. The conveyer belt will also be inside the building.

Ms. Sharp-Gates asked what the life of the canvas building is. Mr. Zeigler said the canvas/mesh has a 25 year life.

Ms. Lengel asked why two 2500' buildings would not work for him. Mr. Zeigler said he needs one building big enough so that the soil will not be hitting the sides of the wall at all.

Ms. Preston asked if there was any kind of foundation. He said it would be a regular block foundation but the building would be movable if you wanted to move it.

Ms. Lengel asked Mr. Zeigler if it is a permanent building. Mr. Zeigler explained it is moveable but you probably would not want to move it. That would not be easy to do. Ms. Lengel said it would be like putting up a 5000 square foot greenhouse. Mr. Zeigler said farmers store grain in these canvas/mesh buildings also. These canvas buildings are good for storing different things. Ms. Lengel asked if he will be storing anything else in the building like stone etc. Mr. Zeigler stated he will be storing stone and mulch behind the building. Ms. Lengel stated it changes our zoning and we are not allowed to do that.

Mr. Ging asked if he could speak and Ms. Gazley stated that she would get to Mr. Ging shortly and he would be able to say what he wants.

Ms. Ferguson asked what about the run-off. Mr. Zeigler stated they have very little and they do keep it cleaned up.

Ms. Gazley asked where he gets the topsoil. Mr. Zeigler said different places; driveways, construction jobs, but most of it comes from the Grand River. Once this building is up and a new slip is put in, he will be getting about 90% of his soil from the Grand River. Mr. Zeigler said he is constantly dredging his lake/Grand River for topsoil. Mr. Zeigler stated that someone threw tires into the river; he said he has pulled out 6 tires strung together which were in his lake

(via the river). Then another set came down recently with 5 tires attached. He thinks someone is throwing them down the hill into the Grand River upstream from his lake.

Ms. Gazley asked why he wanted to use that location for his topsoil storage. Mr. Zeigler said it is helping to keep the river clean when he dredges. "Basically I'm a soil farmer; my goal is to keep it up and it will keep the river from getting any worse." Ms. Gazley stated right next to Mr. Zeigler's property is the sewage plant does Mr. Zeigler's operation have any adverse effect upon the sewage plant? Rod Zeigler said no, not at all. He added the smell from the sewage plant drifts over to his property. Ms. Gazley asked about the fire department. They get their water from the Grand River also. Mr. Zeigler stated they get it from a different part of the lake so what he does will not interfere with them getting water. "What I do will help preserve the river so we are able to use it as a water supply for the fire department."

Ms. Gazley asked how long ago Mr. Zeigler got the deed for that property. He stated he got the deed around 2001. The Board felt this might have been around the same time residential zoning regulation changed. Ms. Gazley asked if he sold anything from that property. Mr. Zeigler said he sells topsoil, stones, mulch and gardening soil. He stated there is no office on that property; the office is in Troy.

Ms. Ferguson asked how long it would take to put up that building. Mr. Zeigler said it will take about 2 weeks to put the building up.

Ms. Preston asked if Mr. Zeigler was considering putting another building on his property. He said he just wants the building for the soil right now.

Ms. Sharp-Gates stated that the Wachs building is a bigger building in the commercial area. She could not remember exactly what was done with that building.

Ms. Gazley asked Mr. Spelich where the soil business would fall on the commercial occupation list. Mr. Spelich stated it could go under greenhouse/landscaping. Ms. Gazley asked if he could consider it to be contractor/building trade since Mr. Zeigler is in the excavating business and the stones etc. are a product of that activity. Since Mr. Spelich now felt the activity was within those described in commercial and home occupation, that a use variance would not be needed.

Mr. Hill stated that the Dollar General store in Parkman Township is in a commercial area and it is a bigger building than what Rod Zeigler is asking for. The BZA recalled they only came to the board for a sign variance. Mr. Hill stated that looking at Section 403.0 and 403.1, there is not a maximum building size listed. It refers back to 402.2 for the minimum size. He felt Mr. Zeigler does not need a variance for the size of the building in a commercial area because the commercial section addresses the maximum amount of lot coverage by building; not the size of the building. The height listed is 30 feet maximum so he will need a variance for the height. The height of the building is 31 feet. The height cannot be changed because the building comes in predetermined sizes. The foundation cannot be dug a foot deeper because it would put the materials he is trying to protect under grade and therefore subject to flooding.

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

Open floor to Public.

Mr. Ging who lives on the other side of the sewage plant stated that he felt that Rod Zeigler's property looks very nice and professional. He said he felt Mr. Zeigler should get the variance to put up his building. It will only make his property look better. Ms. Gazley stated it is our responsibility to uphold the laws of zoning. Mr. Ging said he feels that the building would add to our community. He said he thinks his building will look great, that Mr. Zeigler takes care of his property.

Mr. Ging discussed his interest in becoming involved in zoning. Ms. Gazley informed him he could be in touch with the Zoning Commission. Mr. Ging asked what day of the week they meet. Ms. Gazley told him the 4th Tuesday of the month. Our zoning regulations are on the website. He said he thinks his neighbor on the other side of his property owns half of his garage due to being over the property line. Mr. Ging thanked everyone for letting him have his word.

Ms. Gazley closed that portion of the meeting.

Ms. Gazley asked for a motion to approve the variance. Ms. Lengel motioned, Ms. Sharp-Gates seconded, that the motion passed unanimously.

The BZA discussed the possibility that we ought to talk with the Prosecutor's office regarding the interpretation of the commercial building size. Ms. Ferguson stated she felt we should not hold Mr. Zeigler up, that we should proceed with the variance.

Mr. Hill said we should vote tonight and not delay it.

Ms. Preston asked what we did about the Hauser property, how we handled that. Ms. Gazley stated that the Hauser property was totally different. There is not a principal building on Rod Zeigler's property, it is commercial. "I think that what Rod Zeigler has presented to the board is good and will make our community better."

There being no further comments from the audience, Ms. Gazley made the motion to close the public hearing, Ms. Lengel seconded, the motion passed unanimously.

The BZA agreed that they believe the interpretation of the commercial zoning regulation, as discussed above as to the maximum lot coverage indicates that an area variance as to building size might not be needed. Ms. Gazley asked Mr. Spelich his opinion on that after hearing discussion. He indicated he agreed and that an area variance would not be needed for the proposed variance due to the building square footage.

Ms. Gazley stated the proposed building is still one foot higher than the regulation allows and therefore we need an area variance for height of the building. The BZA agreed that this was the only issue we needed to address via a variance. Mr. Zeigler agreed to amend his variance application so that it requests a variance for the additional foot of height. Mr. Spelich agreed to the amendment to the application. Mr. Hill agreed and so did everyone else. Ms. Gazley made a mo-

tion to amend the application to deal with the height of the building only; accept maximum lot coverage, as being correct, and to take the size of the building off of the table and address the height of the building. Ms. Lengel seconded. The motion passed unanimously.

Ms. Gazley led the board in considering the following issues for finding of the fact.

- 1) Is there a reasonable return or beneficial use without the variance? **Yes, Mr. Zeigler can continue to use the property the same way as before.**
- 2) Is the variance substantial? **No, it is only one foot.**
- 3) Would adjoining properties suffer or be altered? **No, it would look a lot nicer. You would not see the dirt piles covered with tarp. It would be more compact.**
- 4) Is variance averse to providing government services? **No**
- 5) Was purchase of property with knowledge of the restrictions? **Unknown.**
- 6) Can predicament be obviated by means other than by variance? **No, the building comes prefabricated with set dimensions.**
- 7) Would the spirit and intent of the zoning be upheld? **Yes.**

Ms. Gazley made the motion to approve the Variance Request #2016 -15985 as amended by the Board for the height (31 feet) of the building only. Section 402.7 Maximum Height 30 feet or 3 stories, whichever is lesser. Ms. Lengel seconded and upon roll call the vote was Ms. Gazley – Yes, Mr. Hill -Yes, Lucinda Sharp-Gates -Yes, Betty Jo Lengel -Yes, Kathy Preston -Yes, Dale Komandt -Yes, Nancy Ferguson -Yes and the motion passes unanimously.

Variance Request #2016-15985 was granted as amended.

Finding of the fact # 2016-15985 – Ms. Gazley moved to approve the Findings of Fact for Variance # 2016-15985 Zeigler as presented, Ms. Lengel seconded and the motion passed unanimously.

Ms. Gazley advised applicant Mr. Rod Zeigler 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 ten days.

Other New or Old Business:

Ms. Gazley asked Mr. Spelich if he had any updates. Mr. Spelich gave his update on what is pending, and let everyone know there are a couple of variances to be scheduled. Mr. Spelich stated he continues to send out letters to clean-up Parkman Township. He feels he is knocking it off little by little.

Ms. Lengel is really concerned about the allegations we heard tonight concerning tires being thrown in the Grand River. The tires could be coming from anywhere or anyone. Mr. Spelich said he will address with EPA.

Minutes from May 12, 2015 – Ms. Gazley moved to approve minutes as presented, Ms. Ferguson seconded and the motion passed unanimously.

Minutes from August 11, 2015 were put on hold until next meeting February 9, 2016. Ms. Lengel felt the paragraphs were out of sequence. We need more detail and content. Mr. Hill stated to take more time with the notes going forward. July minutes have already been approved and discussed.

Ms. Sharp-Gates would like an e-mail sent 10 days to 2 weeks before the meeting to remind everyone that there is a meeting.

OTHER BUSINESS:

We discussed ways to get packets to Board Members other than mailing them. Ms. Sharp-Gates feels what we are doing now is not working. Jan suggested picking them up at her house. Jan also suggested we put a box on the outside of the community house. Nancy said maybe with a lock on it and make sure everyone has a key. Someone else suggested a combination lock. We will work on this in time for next month.

Ms. Gazley stated she attended the Trustee's meeting in the beginning of January to address any questions or concerns the Trustees may have. The Trustees also have a report of attendance of the BZA members for 2015. The Trustees had no questions or concerns. At the January 5, 2016 meeting, Ms. Preston was reappointed by the Trustees to her position on the Board of Zoning Appeals.

Adjournment:

Ms. Sharp-Gates made a motion to adjourn, Ms. Lengel seconded, the motion passed unanimously. The meeting adjourned at 9:17 p.m.

Respectfully Submitted by Jan Helt BZA Secretary, _____ Date _____

Chairperson, Cindy Gazley _____ Date _____