

PARKMAN TOWNSHIP BOARD OF ZONING APPEALS
March 8, 2016

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

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

Meeting called to order by Chairman Cindy Gazley at 7:00 p.m.

Mr. William Byler left before the meeting started due to a death in the family. Mr. Byler requested that his daughter Kathy Kurtz and Marvin Kurtz represent him at the variance hearing. Kathy and Marvin Kurtz are both on the deed along with Mr. William Byler. Ms. Gazley asked Ms. Kurtz if she was comfortable with representing herself and Mr. Byler and she said yes she was. BZA members were in agreement.

Approval of Minutes:

Ms. Gazley asked for a motion to waive the reading of the minutes, Ms. Lengel motioned and Ms. Preston seconded. Motion passed unanimously.

Ms. Gazley informed every that the County Prosecutor Sheila Salem said that we may amend the application at the hearing and hear the variance appeal for the new issue that came up (i.e., side yard example). We need to make sure our conclusions of the law and findings of the fact reflect our findings on both issues.

There are 2 appeals to be addressed by the Board at this meeting:

- 2016 – 16511-1 and 16511-2

VARIANCE REQUEST #2016-16511-1 Mr. William Byler 16511 Bundysburg Rd.

Appeal # 2016-16511-1 was called - ARTIVLE 1V Section 402.1 Permitted Principal buildings, Structures, and Uses: H. Single family detached dwellings, including industrialized units and manufactured homes, subject to regulations set forth in Section 402.11. There shall be no more than (1) single family detached dwelling on a lot.

Ms. Gazley administered the Oath of Truthfulness to all present interested in providing information to the BZA tonight to Marvin & Kathryn Kurtz and John Spelich Zoning Inspector for Parkman Township.

Ms. Gazley explained the format of the meeting and then gave an overview of how the meeting would be run.

Ms. Gazley asked Mr. Spelich, Zoning Inspector, what the variance was, from his perspective. Mr. Spelich stated that lot # 25-009300 owned by William Byler, Marvin and Kathryn Kurtz has two (2) houses on the property. The original house built around 1972, 44 Year ago and a second house built originally as a shop or accessory building. It was turned into a home in 2008. Mr. Byler and Mr. and Mrs. Kurtz purchased land

behind their property which made a change to their lot (more land) all current zoning rules and regulations become effective. There is one septic system shared by both homes.

Mr. Hill stated prior to the acquisition there was no issue because no one knew there was another home on the property. One septic on the property is the county's issue not the BZA Board's. There was originally three and a half acres (3 ½) with the purchase of the back property there is now 11.2 acres. The map was consulted and everyone agreed.

Ms. Lengel stated that the other issue is frontage, they have 68 foot frontage should be 200 foot frontage. It is not so much about the property line change, they are out of compliance. The frontage is not the problem the two (2) homes on one property is the problem. The older home has been there for 44 years. Mr. Spelich stated we had a similar situation on dead end Shed, two (2) houses with one septic, they eventually added another septic. We did not get involved with that issue either they went on to do it themselves.

Ms. Gazley stated we have *Zoning Regulations* it is our job to uphold the law unless there is something unusual about the land, like a big hill that you can't build a house on etc.

Applicant Explanation for requesting variance to Parkman Township Zoning Resolution.

Ms. Gazley asked Ms. Kurtz if she wanted to explain the request for variance. Ms. Kurtz said she would rather just answer the questions.

- a) Whether the property in question will yield a reasonable return or whether there can be a beneficial use of the property without the variance. Ms. Gazley asked Ms. Kurtz if she does not get the variance for the two (2) houses can she still use her property. Ms. Kurtz said her father could live in the older home with them. The septic is connected to both homes. There is no electric or gas in either home. She said they do have a phone connected. Ms. Gazley asked if there was anything in Mr. Byler's house that the county had to approve, the answer was no. Mr. Hill asked if they can use the smaller home as a shop, Mr. Kurtz said they could. Ms. Kurtz said her and her husband used to live in the smaller house because her parents who were getting older and needed some help. Her Mom passed away in 2014 and her and her husband switched homes with her Dad Mr. Byler.
- b) Whether the variance is substantial: Yes, everyone one agreed.
- 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, it would not change the neighborhood.
- d) Whether the variance would adversely affect the delivery of government services: No, we are about 658 feet from the road. Ms. Ferguson asked if a fire truck or emergency vehicle could get back there easily. Ms. Kurtz stated that the Fire Dept. and ambulance service have both been back there already. Ms. Kurtz

stated there would be no problem the driveway has been there for years and is solid.

- e) Whether the property owner purchased the property with knowledge of the zoning restrictions? Ms. Gazley asked if Ms. Kurtz knew about the restrictions on 2 homes on the property, they were in place in 2008. Ms. Kurtz stated she did not know.
- f) Whether the property owner's predicament can be obviated through some other method other than a variance? Mr. Kurtz stated probably not; then he said Mr. Byler could move in with them.

Ms. Gazley asked if there was anything else.

Ms. Lengel asked if they could do a lot split.

Mr. Hill stated they did not have enough frontage to do a lot split. Dividing it would not help there is no frontage.

Ms. Lengel stated she did not see the practicality of doing that. Mr. Hill stated they do have 11 acres but it does not help because the smaller home was built out of compliance with zoning.

Ms. Preston asked what the distance is between the two (2) houses, could they put a passage in between to make them one. Mr. Kurtz said it is about 10 feet. That is a possibility that could be done. Although in the end there is still only one septic system. Mr. Spelich stated that they could upgrade their septic to a bigger one. Mr. Spelich said it would cost a lot of money to add another system.

Mr. Hill said it is 11 acres that is a point. .

Ms. Gazley asked for a motion to grant the variance. Mr. Hill moved and Ms. Lengel seconded the motion. Motion passed unanimously.

Board Members, Discussion/Deliberation

Ms. Lengel stated she is with Mr. Hill on this she is torn. The home was built as a shop first in 2008 as an accessory building with intent it could be used as a house. Ms. Kurtz said her and her husband moved in and later after her Mother passed away her father moved in.

Ms. Preston asked what the measurements were on the bigger home. Mr. Kurtz stated they the home is 1800 square feet (28 by 40).

Ms. Lengel stated the smaller home is not listed on real link at all. Ms. Lengel stated it would be best to connect the two (2) homes they are 10 feet apart. Ms. Lengel asked Mr. Kurtz if that is something he could do. He said he could do that.

Ms. Gazley stated these are considerations to do if he wants to. The Board is not telling him that is what he needs to do.

Ms. Lengel feels there are other options Mr. Byler and Mr. and Mrs. Kurtz can consider without giving them the variance.

Ms. Gazley asked for any other questions or comments from the board members, closed that portion of the meeting and asked for a role call on the motion to grant the variance: Ms. Gazley – No, Mr. Hill – No, Ms. Preston – No, Ms. Lengel – No, Ms. Ferguson – No, and the motion was denied.

Ms. Gazley stated the variance has been denied. It is not legal to have two (2) houses on your property. Applicant is advised he is able to appeal the board's decision through the Geauga County Court of Common Pleas if he chooses. You will be receiving paperwork in the mail within 10 days confirming the board's decision.

Mr. Kurtz asked what he has to do next if he decides to connect the homes. Ms. Gazley said he will have to make an appointment with Mr. Spelich our Zoning Inspector to discuss what needs to be done as far as permits etc.

Ms. Gazley asked if Mr. and Mrs. Kurtz understood everything. Mrs. Kurtz asked if this had anything to do with the land they purchased. Ms. Gazley said no, the problem is 2 homes on one property.

Ms. Gazley suggested we move on to the second variance on the agenda

APPEAL # 2016 – 16511 Marvin and Kathryn Kurtz

Appeal # 2016 – 16511 – 02 - ARTICLE 1V Section 402.5 Minimum Lot Width. The minimum lot width shall be 200 feet except as follows: A. 2. The minimum lot width at the front building setback line (front yard) shall be 200 feet. Mr. and Mrs. Kurtz only have 68 foot frontage on their property.

Board Members, Discussion/Deliberation.

Ms. Gazley led the Board in considering the following issues:

- 1) Is there a reasonable return or beneficial use without the variance No, because you have two (2) homes on the property even if you had one home and an accessory building you would not be able to use that piece without the variance. Mr. Hill stated that section would only be worth 2 or \$3,000 dollars.
- 2) Is the variance substantial? Yes
- 3) Would adjoining properties suffer or be altered? No

- 4) Is variance averse to providing government services? No
- 5) Was purchase of property with knowledge of the restrictions? No
- 6) Can predicament be obviated by means other than by variance? No
- 7) Would the spirit and intent of the zoning be upheld? Yes

Ms. Gazley asked applicant if they had anything else to add, and then closed that portion of the hearing and asked for a motion to grant the variance.

Ms. Lengel moved to grant Variance # 2016 – 16511 – 2 Ms. Gazley seconded and the motion passed unanimously.

Ms. Gazley asked for any other questions or comments from the board members, closed that portion of the meeting and asked for a role call on the motion to grant the variance: Ms. Gazley – Yes, Mr. Hill – Yes, Ms. Preston – Yes, Ms. Lengel – Yes, Ms. Ferguson – Yes, and the motion passed unanimously.

Ms. Gazley informed the applicant that variance has been approved he needs to wait 30 days because an appeal may be filed within that given time. You will receive paperwork in the mail within 10 days confirming the board's decision.

Ms. Gazley told Mr. and Mrs. Kurtz they could leave their portion of the meeting was done we had some board business to go over they were welcome to stay.

Findings of the Facts # 16511 – 1 - Byler and 16511 – 2 – Kurtz – Ms. Gazley moved to approve the finding of the facts for both variances as presented Ms. Lengel seconded and the motion passed unanimously.

Ms. Gazley asked Mr. Spelich what is going on with Main Market Auto. Mr. Spelich stated that non-compliant letters have been sent to the owners of Main Market Auto (Olga and Inna Prokolf) Cleveland TN letting them know what is going on at their rental property and to alert them to the fact Parkman Township may take legal action if the auto lot is not cleaned up in a timely manner. He said he talked to Emil and Nathen the renters letting them know that are to vacate the property that they are in violation of zoning. They need to clean up the property or Parkman Township will take them to court. Mr. Spelich also called the health department and let them know Main Market Auto is shut down. Also Amen Towing owned by James Cooper was told he needs to remove all his junk cars. Emil tried to have a car repair shop in the building which did not work out. All SHARP CAR SERVICES signs have been removed. He said he will check again tomorrow to see if they are continuing to comply.

Ms. Gazley asked what he is doing about the blight in downtown Parkman on Main Market. Mr. Spelich said he is continuing to send out letters to everyone about their property not necessarily certified. Mr. Hill felt we should send the letters certified. Mr.

