

## MINUTES BZA 7/10/2023

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### **MINUTES FOR THE REGULAR MEETING OF THE CHESTER TOWNSHIP BOARD OF ZONING APPEALS HELD MONDAY JULY 10, 2023 IN THE TOWN HALL MEETING ROOM**

Chairman, Barton Ziganti called the July 10, 2023, Chester Township Board of Zoning Appeals meeting to order at 7:07 pm.

#### **Roll Call**

Members present: Ms. Fadorsen, Ms. Klemm, Ms. Muehling, Ms. Sritalapat, Mr. Ziganti

Members absent: --

Admin present: Ms. McCarthy

Zoning Inspector: Mr. Ivans and Mr. Purchase

Mr. Ziganti led those present in reciting the Pledge of Allegiance. He also asked all adults present to sign in at the lectern with their name and address.

Mr. Ziganti read the public hearing process of the Board of Zoning Appeals.

#### **Appeal Z-2023-7 Brian Denamen 13011 Stratford Trail**

The applicant is requesting an Area Variance for his property. He proposes building an accessory building on his side lot 56' from right-of-way which does not meet the minimum side yard setback of 70' requiring a 20% variance.

Mr. Brian Denamen was present to represent himself with this application, Mr. and Mrs. Denamen and the Zoning Inspector were duly sworn in. Ms. McCarthy read Form #4 into the record.

Mr. Denamen began by saying, we are not trying to jeopardize the characteristics of the neighborhood. We're simply trying to put an outbuilding towards Greenfield in a more accessible area where we will not have to walk through saturated soil. Mr. Denamen showed pics of recent interior and exterior waterproofing done to the home.

In his presentation, he showed photos of the angle of the water and how it drains toward the home. The shed is well within the size requirements of a shed for this size of lot. It's a kit that is prefab and he will build it himself. Recently they had removed a large cottonwood tree and moved the existing shed for the animals to the back of the lot, to the east property line. The shed that was moved is 10' x 14'.

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He showed a photo of a fence line at the corner of Stratford and Greenfield which shows the proposed placement would not impede the sight lines of traffic. Aesthetically, the characteristics of the neighborhood would not be jeopardized.

Pictures of the property after a recent rain fall were shown documenting where the water flows. Mr. Denamen spoke of additional drainage recently installed drainage to help divert the water. He spoke of the many trees that have been removed to help dry out the soil. We are trying to put the proposed shed at the highest point on the property to help alleviate the wet soil conditions. According to some of the neighbors, there seems to be an old pool buried on the property which may explain why the water is puddling there.

Mr. Ziganti asked for verification that the original shed that was moved is 10' x 14' and therefore 140 square feet.

Mr. Denamen said yes.

Mr. Ziganti explained to Mr. Denamen that he should be aware that the two accessory buildings combined cannot exceed 1,280 square feet.

Mr. Denamen replied that they will still be well below the maximum square footage allowed.

Mr. Ziganti asked about the standards on Form #4, question #7.

Mr. Denamen confirmed that the original shed was not removed, but rather moved to the back of the property.

Ms. Muehling referred to Section 2 on Form #4 saying the actual variance referred to should be 5.01.03, not 5.01.17 which is the chart. Correction to the Zoning Forms were initialed and dated by Mr. Denamen.

Mr. Ziganti asked about the septic system referred to on the Health Department map and where is the information that indicates there is a drainage issue. Soil tests for septic systems have nothing to do with the contour of the land. Is this the document you are using to refute the topographical map that we have?

Mr. Denamen said yes.

Ms. Denamen said, but that area is not flat and that area is probably the flattest area of the back yard while keeping away from the wet area we are trying to avoid.

Ms. Muehling asked about the north corner displayed on the contour map and mentioned that the contour lines come closer together. Apparently, there was a good reason the septic tank was placed where it was. I could see that the drainage from off

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lot goes directly in the direction Mr. Denamen has shown and cuts directly across his property. I have a similar situation on my own land. I have a spot that is very difficult to dry. The drainage comes from off property. I think the drainage cutting across his property indicates that is going to be a very wet spot and water is going to be a problem.

Mr. Ziganti said the jagged contour lines are where the culvert is as shown on the topography map.

Mr. Denamen said that anything the culvert doesn't catch is going directly into their back yard and hopes that the recent work they had done will keep that from continuing.

Ms. Muehling said that this is a problem that should be considered.

Ms. Denamen showed on the map the area where the water comes from and where it stops on their property.

Mr. Ziganti asked if the accessory building to be built would be put on a concrete pad.

Mr. Denamen said no, it will have a gravel floor.

Mr. Ziganti asked if the new building will have electric or water?

Mr. Denamen said no.

Mr. Ziganti asked, should the requested variance be granted, would you consider providing screening on the east side between the building and Greenfield Road?

Mr. Denamen said there is a chain link fence and foliage there already. Would you want more screening beyond that?

Mr. Ziganti said he would like screening there that is always there like in the wintertime.

Ms. Denamen said that much of that area has been cut up to help dry up the property.

Mr. Denamen said he is willing to let existing foliage grow back in. Not sure he wants to plant additional evergreen trees.

Mr. Ziganti said the idea would be to shield the view of the structure from the road.

Mr. Denamen said he is willing to provide some additional photos to show this is not really necessary if that would help. We also have forsythia growing in that area. None of the area along Greenfield trail has been trimmed.

Ms. Klemm added that there had been a pool in that area in the past. That may explain why there is a water problem in that area.

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Ms. Denamen confirmed that was what one of the neighbors that had lived in the area for a long time had said.

Mr. Ziganti asked for comments from the audience. He then asked again, in order to make a variance of 20% which is substantial more palatable to at least one member of this board, there was a question as to whether or not you would consider year round screening to shield the view of this accessory building from people that are traversing Greenfield Trail. That would mean live screening that is from grade upward to an appropriate height.

Ms. Denamen said yes, we can plant other things if that is the challenge of approving this variance. If the juniper and arborvitae already growing there is not enough to shield it, yes, we will create a live wall.

Mr. Ziganti said since there were no photographs of the area available, the Denamen's could do a continuance until next month to present more photographs.

Ms. Denamen said she would supply photographs showing existing plantings.

Mr. Denamen said if that was not enough, yes, they would plant additional plantings.

Mr. Ziganti asked for a motion

Ms. Sritalapat made a motion to discuss approving an Area Variance request for Brian Denamen's Appeal Z-2023-7, 13011 Stratford Trail. Ms. Fadorsen seconded the motion.

Mr. Ziganti started the discussion by saying he does not see an issue with the lay of the land. The grade and the septic soil report has to do with septic systems and not everyday soil and drainage. This is typical for this area. Lots of people have problems with septic systems, but that is not relative to the actual flow of water during rainstorms etc. I don't see the practical difficulty here.

Ms. Fadorsen indicated the map of the drainage was going somewhere. It's all ending up in the low spot in his backyard. It hits the low spot before it hits the house. I have a low spot in my front yard which is water coming from the neighbor's house.

Mr. Ziganti said he should consider putting a culvert between the backyard and the accessory building. A new culvert would be needed to go from west to east to catch the water.

Ms. Fadorsen added that her front yard is flat and she is addressing the same problem.

Mr. Ziganti said the water is moving. It doesn't pool.

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Ms. Klemm pointed out that they gave testimony that the water does in fact pool behind their house.

Mr. Ziganti asked if they mean swimming pool?

Group discussion continued with the swimming pool area.

Ms. Sritalapat said with the addition of the recent waterproofing this map may no longer be an accurate reflection of what is happening now.

Ms. Klemm said she felt it was the duty of this Board to consider the needs of the township and the nature of the housing in the neighborhood. At the same time, we need to consider making the area livable for homeowners. In my opinion, the appellant has spent a great deal of money waterproofing their home because of this grade issue and there certainly was an expense to move the existing shed to the back. Now they've gone to enormous expense to keep water from going to their basement. For him to build his new shed in the highest spot would be the least expensive thing to do. I do believe there is a hardship here.

Ms. Muehling said that normally, she would not consider water flow a hardship. But in this case, two things have happened. The homeowner has been deprived of the use of his property – that I think is a hardship. They have a back yard that is technically not very usable because of the flow of the water. Here we have a situation where the septic tank is not where it normally goes because of the condition of the soil, but they are deprived of much of the use of their property. They have a 20% variance and they do not seem to be overbuilding on the lot. This is an "R" district thing with less than 1 ½ acres which affects the use of their property. The guy with the smallest property needs the storage the most and has the least amount of land to put it in. Where it should go does not make sense as it is wet much of the time. The hardship is they cannot use the area where it would normally go. Yes, I think they need to be granted the variance. (Ms. Muehling was referencing a slide showing the placement of the septic system while she spoke.)

There being no further comments, the vote was taken to approve the 20% variance request to build the proposed shed on the side lot.

*Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Ms. Sritalapat/no; Mr. Ziganti/no*

Motion passed.

### **Findings of Fact for Appeal Z-2023-7**

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Mr. Brian Denamen, requesting an area variance for the property located at 13011 Stratford Trail, proposes building a 12' x 24' accessory building located 56' from the eastern property line. This variance request is for a 20% variance. Testimony was given that an existing 10' x 14' outbuilding has been moved to the east property line directly on the center line. The appellant has agreed to provide live screening along the northern edge of the accessory building to screen a view of the building from Greenfield Trail.

We the Board incorporate into these Findings of Fact the applications and exhibits of the appeal including all corrections, clarifications, and additions.

Ms. Fadorsen moved to approve the Findings of Fact for Appeal Z-2023-7. Ms. Klemm seconded the motion.

*Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Ms. Sritalapat/yes; Mr. Ziganti/yes*

**Appeal Z-2023-8  
Gary Mollé  
11240 Winding Brook Lane**

The applicant is requesting an Area Variance for his property. He proposes building an accessory building closer to the street than the 70' from the right of way required for corner lots.

All persons intending to testify were sworn in.

Mr. Ivans provided a synopsis of the variances being requested by Mr. Mollé.

Ms. McCarthy read form #4 into the record.

Mr. Mollé stated he was in agreement with what was read into the record.

Mr. Mollé testified that he and his wife have lived at this property for 18 years. Over the years a lot of work has been done to try to level out some of the yard area. Our current backyard is about 25' wide and then drops off greatly. The front side of the proposed building is going to be at the back edge of the existing garage and headed eastbound. Because of the drop off, a driveway is not able to be put in off of Winding Brook Lane. The driveway had to come off of Kirkwood.

The open area behind the trailer is where the new shed will be built. This area used to be where firewood was stored. We now want to put a building there. The building will be 24' x 30'. The actual building is 16' wide with a 8' lean-to on the side of the building.

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A map showing the 70' setback around the home was put on display. Mr. Purchase showed the Board how the home is positioned and how it relates to the topo map. The current shed was also pointed out to help for visualization.

Ms. Muehling asked what is the front yard or side yard?

Mr. Purchase answered the property owner determines where the front and side yard are when the property is a corner lot. The home actually runs parallel to Kirkwood.

Ms. Klemm asked what the intended use will be of the new building besides storing firewood.

Mr. Mollé replied the building will have lawn and garden equipment and recreational equipment.

Ms. Klemm asked if there will be a concrete floor in the building?

Mr. Mollé said the building will sit on 4x4's and a wood floor and will sit on top of the ground.

Mr. Ziganti asked if he had had any discussions with the Fire Department about the placement of the building being located closer to the residence than what is permitted.

Mr. Mollé showed the gravel driveway available to the Fire Department for use if needed.

Mr. Ziganti asked again if the plans were reviewed with the Fire Department.

Mr. Mollé said, no

Mr. Ziganti asked if there will be electric or water run to the new shed?

Mr. Mollé said, no

Mr. Ziganti asked Mr. Mollé if he understands that the existing shed counts toward the maximum allowed of accessory buildings.

Mr. Mollé – Yes

Ms. Muehling asked to look at the photos again which were again displayed on the monitor.

Group discussion continued about the placement of the existing shed and proposed shed.

Ms. Sritalapat asked about the location of the well head.

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Mr. Mollé pointed it out on the map.

Ms. Sritalapat asked if there was enough room for someone to service the well if needed.

Mr. Mollé said, yes

There being no further conversation, Ms. Fadorsen made a motion to approve the building of an accessory building closer to the street than the 70' from the right of way required for corner lots. Ms. Sritalapat seconded the motion.

Ms. Sritalapat said it is certainly a challenging site topographically. There's not a lot of options. I would like support from the Fire Department that a structure this close to the house is safe.

Ms. Fadorsen said that the dramatic drop from the pictures certainly indicates a need.

Ms. Muehling asked if there is an additional garage door at some point?

Mr. Mollé – yes, on the back side. It's used as storage. It is not accessible from inside the house.

Ms. Fadorsen stated you can see they built the home right to the edge of the allowable building area.

Ms. Muehling said, so, the entire new building is outside of the 70' right of way. Anything they put in would be outside of the allowable area.

The Board continued looking at photos and topo maps that had been supplied.

Ms. Muehling said she agreed with Ms. Sritalapat that she would like to know how the Fire Department felt about the proposed shed.

Mr. Ziganti said the board could request a continuance to next month in order to get the Fire Department approval. We could ask the appellant if they want a continuance. We should make it clear that whenever there is a variance request with this issue, the Fire Department should review the plan.

Ms. Sritalapat said, in most cases, I would want the opinion of the Fire Department. But in this case, in my opinion, because there is no gas or electricity in the proposed accessory building, the risk is minimized. I could go either way with a continuance.

Ms. Muehling said based on the testimony of the Zoning Department, I feel like it could go either way, so there is no real reason for a continuance.

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Mr. Ziganti said his position is there is definitely a practical difficulty with this lot, unless they wanted to put the accessory building in the southwest corner where it is flat. I think we could go ahead and vote on these variance appeals. Based on that, we should make a request of the appellant to present their plans to the Fire Department should this Appeal pass.

Vote: Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Ms. Sritalapat/yes; Mr. Ziganti/yes

Motion passed.

### **Findings of Fact for Appeal Z-2023-8**

Mr. Gary Mollé is requesting area variances on his property located at 11240 Winding Brook Lane. The variances are required due to the unusual shape of the property being a corner property. Review of the topographical map indicates no reasonably flat areas exist behind the rear line of the residence nor in an area that does not extend into the required 100 feet separation of the center line of either Kirkwood or Winding Brook Lane. Therefore a 100% variance is required. Due to the difficulties with the land, the proposed accessory building will be positioned within 12' of the south side of the principal building requiring a 40% area variance. It should be noted that there is a 120 square foot shed already located on the property. The accessory building will be located in front of the rear line of the principal residence requiring an additional 100% area variance. The accessory building is to be a skid style building with a wood floor to be placed on a gravel pad. The testimony given was that no electric or water will be provided to the accessory building. The Board members are requesting that the drawings are reviewed with the Fire Department.

We the Board incorporate into these Findings of Fact the applications and exhibits of the appeal including all corrections, clarifications, and additions.

Ms. Fadorsen moved to approve the Findings of Fact; Ms. Klemm seconded the motion.

Vote: Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Muehling/yes; Ms. Sritalapat/yes; Mr. Ziganti/yes

Motion passed.

### Review of July 10, 2023 Meeting Minutes

Ms. Klemm moved approval of the June 12, 2023 meeting minutes as modified; Ms. Fadorsen seconded.

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Vote: Ms. Fadorsen/yes; Ms. Klemm/yes; Ms. Sritalapat/yes; Ms. Muehling/abstain; Mr. Ziganti/yes Motion passed.

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### New Business

Ms. Sritalapat brought up question about how we might address the Fire Department issue that seems to be coming up with Area Variances where the structure is closer to building than called for in the Zoning Resolution.

Open discussion continued.

Ms. Klemm brought up the value of the recent Northeast Ohio Planning and Zoning Workshop in Kent.

Meeting was closed at 9:50 p.m.

Approval Date August 14, 2023

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Kathleen McCarthy, Admin. Assistant

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Barton Ziganti, Chairman