

# BURTON TOWNSHIP

## BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

**Date:** November 7, 2019

**Time:** 7:00 p.m.

**Place:** Burton Township Administration Building

**Purpose:** Public Hearing on application #1459-19 submitted by Andrea Mierau.

**Board Member(s) Present:** Chairman Tim Snyder, Alan Skeen, John Nelson, Vince Strahan, Leonard Fife, 1<sup>st</sup> Alternate Frank Vecchio, 2<sup>nd</sup> Alternate Joe Dallos.

**Absent:** None.

**Visitors:** Mary Mullett, Andrea Mierau, Rick Gruber, Joanne George.

### PUBLIC HEARING

Chairman Snyder calls the public hearing to order at 7:02 p.m. Roll Call of the Board shows Tim Snyder, Alan Skeen, Vince Strahan, John Nelson, Len Fife, 1st Alternate - Frank Vecchio, 2nd Alternate - Joe Dallos present.

Chairman Snyder states the purpose of the public hearing is a request for an area variance at 12801 Kinsman Road seeking relief from Article IV, Section 402.3(C)(6) as stated in application #1459-19 submitted by Andrea Mierau. Secretary O'Neill confirms that proper notice was sent and published to adjacent property owners and the public for this hearing.

Andrea Mierau of 12801 Kinsman Road, Burton OH is sworn in. Ms. Mierau states that she would like to install a fence in front of the home for privacy, sound and safety. She testifies that she was unaware that a permit was needed for the fence, and that a portion of it has already been installed. Ms. Mierau explains that their home is approximately sixty-seven (67) feet from the road centerline, thirty-five (35) feet from the home to the fence and thirty-two (32) feet from the fence to road centerline.

Using the color drawing submitted with the application Ms. Mierau adds the distance from the home to the fence in "red". She also references the drawing to indicate the distance between each fence section to allow for the horseshoe driveway. The west side opening is twenty-one and a half (21 ½) feet, while the east side opening is twenty-two (22) feet. She also adds this in "red" on the drawing. As the property is a corner lot to Route 87 and South Rider Road, Ms. Mierau also adds the distance from the east fence to the side of South Rider Road, which is one hundred and twenty-five (125) feet.

Using another drawing, submitted into record as Exhibit #1, Ms. Mierau indicates to the Board where the existing fence has been installed, depicting the items in "red." She further states that she would like to extend the fence an additional one hundred (100) feet from the front east fence towards South Rider Road.

Ms. Mierau states that the fence will provide protection for her infant daughter from the road and traffic. She testifies that Aquilla Road coming into Route 87 poses a risk and the fence would aid in protection from accidents. Ms. Mierau states that the fence also provides a sound barrier from the road noise as

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well as the noise from the bridge made by the traffic driving over it. She expresses that the fence would provide peace of mind and explains that her neighbor to the west had a car veer off of Route 87 into her yard.

Ms. Mierau further explains to the Board that she owns a large German Shepherd. She states that her dog is able to jump a four (4) foot fence, therefore to ensure the safety of her pet, she is requesting the fence to be six (6) feet in height.

Chairman Snyder inquires about the material used for the fence. Ms. Mierau states that it is solid wood, picket style material.

Chairman Snyder questions Ms. Mierau on the reason for a six (6) foot fence. She states that the one (1) story, ranch dwelling is very close to the road and would provide sufficient privacy and noise buffer.

Ms. Mierau addresses the concern for fire and safety access. She explains that the fire department and EMS were called to the home a few weeks ago and that the ambulance was able to enter the west driveway and exit the east driveway with no issues. She states that the fire truck was parked on the road.

Rick Gruber, Zoning Inspector of 14369 Broadwood Drive in Burton Township, is sworn in. Mr. Gruber states other than the height, the fence meets all other zoning requirements. He speaks to the road right of way, stating that it is forty (40) feet from road centerline at this location, instead of the thirty (30) feet as was stated in the application. Mr. Gruber states that the measurement from road centerline to the front of the residential structure is seventy-four (74) feet, and thirty-four (34) feet of distance from residential structure to road right of way. He explains that the fence is currently eight (8) to ten (10) feet inside the road right of way. Mr. Gruber states that the fence does not impede on the sight line to exit the driveway.

Mr. Skeen asks Mr. Gruber on the right of way of Rider Road. Mr. Gruber references GeaugaReaLink stating that the right of way is eighty (80) feet at the North side and narrows to sixty (60) feet going South.

Chairman Snyder reviews the Duncan factors for an area variance with Ms. Mierau.

- A. Whether the lot in question will yield a reasonable return or whether there can be any beneficial use of the property lot without the variance?
  - Yes. Can still be used as a single family home, however the fence will add value to the property.
- B. Whether the variance is substantial?
  - No. Variance is for an additional two (2) feet of height.
- 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?
  - There will be no effect on neighboring properties.

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- D. Whether the variance would adversely affect the delivery of governmental service?
- Ms. Mierau states that it will not affect the delivery of services. Chairman Snyder is concerned about access to fire trucks. Mr. Skeen points out that the fence does not extend beyond the width of the driveway, therefore does restrict what is already there. Mr. Gruber testifies that the fence does not impede upon the driveway, and that access of fire trucks depends on the ditches along Route 87.
- E. Whether the lot owners purchased the lot with the knowledge of the zoning restriction.
- No.
- F. Whether the lot owner's predicament feasibly can be obviated through some method other than a variance?
- No.
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance?
- Yes.

Chairman Snyder addresses the ability of the Board to grant a variance to construct within the road right of way. As an independent governmental body, the Board has the ability to grant the variance, however the State of Ohio can enforce the structure to be taken down. Chairman Snyder states that he would prefer not to grant the variance and avoid a battle between State and Township entities. In addition, Chairman Snyder states that an amended application will need to be submitted in order for the Board to decide to grant this portion of the variance as the current application only addresses the height variance.

Chairman Snyder suggests a continuation of the hearing in order to allow Ms. Mierau to look into State requirements and amend her application on the assumption that the State allows the structure. Chairman Snyder comments that if the State denies the location, he does not believe there is much the Board can do.

Ms. Mierau requests that the hearing be continued to allow for a State decision and if applicable an amended application.

The continuation of the hearing is set for one hundred and twenty (120) days out on Thursday, February 6, 2020 at 7:00 p.m.

With nothing further, Chairman Snyder closes the public hearing at 7:43 p.m.

#### REVIEW AND APPROVAL OF MINUTES

Minutes from the public hearing on September 19, 2019 regarding application #1455-19 submitted by Hexpol Compounding. Mr. Nelson moves to approve the minutes as written. Mr. Strahan seconds the motion. No discussion. Voice Vote: All in favor. None opposed. Mr. Skeen abstains. Motion carries.

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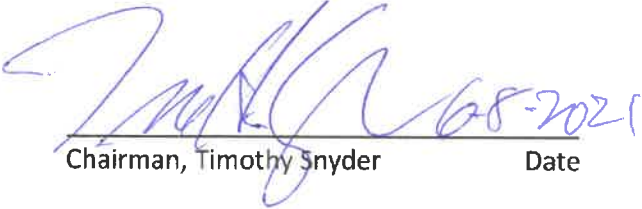
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NEXT MEETING

The next meeting is scheduled for Thursday, December 5, 2019 at 7:00 p.m. for a public hearing regarding a Conditional Use Permit submitted by Scott Hoar application #1457-19.

ADJOURNMENT

Chairman Snyder entertains a motion to adjourn. Mr. Skeen so moves. Mr. Strahan seconds the motion. Voice Vote: All in favor. The meeting concludes at 8:17 p.m.

  
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Chairman, Timothy Snyder                      Date

                        
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Secretary, Katie O'Neill                      Date