

BURTON TOWNSHIP

BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

Date: August 31, 2021

Time: 7:00 p.m.

Place: Burton Township Administration Building

Purpose: Public Hearing to consider application #1529-21 submitted by Andrew Miller.

Board Member(s) Present: Chairman Tim Snyder, Alan Skeen, John Nelson, Leonard Fife, 1st Alternate Frank Vecchio, 2nd Alternate Joe Dallos, Secretary - Katie O'Neill.

Absent: None.

Attendees: Andrew J. Miller, Philip C. Miller, Danny Troyer, Aaron Hershberger, Bob Umholtz, Zoning Inspector - Rick Gruber.

PUBLIC HEARING

Chairman Snyder calls the public hearing to order at 7:00 p.m. Roll Call of the Board shows Tim Snyder, Alan Skeen, John Nelson, Leonard Fife, 1st Alternate Frank Vecchio, 2nd Alternate Joe Dallos present. 1st Alternate Frank Vecchio will fill the open Board Member position.

Secretary O'Neill confirms that all adjacent property owners had been notified, as well as the public through newspaper publication.

Chairman Snyder announces the purpose of the hearing which is to consider Application for an area variance #1529-21, submitted by Andrew Miller for the lot located at 14995 Durkee Road.

Andrew Miller of 14995 Durkee Road is affirmed. He states that he would like to leave his solar panels, "panels," where they currently are because it is the most efficient in that location.

Chairman Snyder asks if the panels have already been installed. Mr. Miller states "yes." He was unaware of the zoning regulations at the time they were installed. He explains that he received a letter in the mail stating he was in violation of zoning.

Mr. Miller states that the panels are south facing. Mr. Vecchio asks if there is any other location on the property that could be utilized. Mr. Miller attests that he would have to remove trees to use another location. Mr. Vecchio asks about the size of the panels. Mr. Miller responds that they are six (6) feet by six (6) feet, seventy (70) feet from center of the road and eighty five (85) feet from the west property line.

Mr. Vecchio asks if the panels could be mounted on top of the house. Mr. Miller states they could, however they would not get any sunlight in the winter time. He further states the panels would not be useful if he were to put it on the house, barn or in that general area because there is just not enough sunlight all year round. He states that the area where the panels are currently located gets the most sun on his property.

BURTON TOWNSHIP

BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

Mr. Nelson asks what would be used as an alternative source if the lot was completely wooded. Mr. Miller states he would have to charge batteries with a generator or take them along to work to be charged there.

Mr. Miller states he installed the panels in March and they have worked very well. He explains that the trees, which are very tall, encroach up to the back of his buildings and prevent any sunlight on the property during winter. He states he had a small solar panel on his barn, however it was not very useful because solar panels need full sun.

Mr. Nelson asks how much the panels could be moved back in order to still be effective. Mr. Miller states sixteen (16) feet. He explains that the location in front of his barn along the horseshoe driveway is the last place the snow melts, therefore he wants the panels as close to the road as possible to be most effective.

Rick Gruber, Zoning Inspector, of 14369 Broadwood Drive is sworn in. Inspector Gruber clarifies the GIS aerial photograph submitted with the application was taken in 2017 and does not currently reflect all the buildings on the property today. Referencing the satellite picture, Inspector Gruber points out that the tree line is right up against the back of the house, which leads to a hill that rises back behind the barn.

Chairman Snyder references zoning regulation 402.3(J)(2) states that a solar panel should not be located in front of the primary building. He asks if the aerial photo accurately represents where the tree line is, meaning that for the panel to not be in front, trees would need to be taken out. Mr. Miller confirms "yes," and states he would need to remove a lot of trees. Mr. Miller attests there is a creek approximately three hundred (300) feet behind his home leading into a hill. He explains if trees were to be removed it would lead to erosion.

Mr. Skeen asks Inspector Gruber how he became aware of this issue. Inspector Gruber states the Trustees notified him that the panels were up. Mr. Skeen asks if a complaint was received. Inspector Gruber responds "no."

Chairman Snyder asks if there is electricity going to the home. Mr. Miller states "no." Chairman Snyder asks if his religious beliefs are inconsistent with having commercial electricity brought into the home. Mr. Miller responds "yes."

Mr. Skeen asks if there is a possibility of expanding the panels. Mr. Miller states he does not at this time, however he would contact Inspector Gruber to discuss. Mr. Skeen asks if an expansion would require an additional permit. Inspector Gruber confirms it would, along with another variance request.

Mr. Skeen asks if Mr. Miller could install a buffer to shield the panels. Mr. Miller responds "yes." He explains that he wants to plant pine trees in two (2) to three (3) years, however he can plant something now if he needs to.

Mr. Nelson asks if a six (6) feet by six (6) feet panel is the smallest size. Mr. Miller states the panels are three (3) feet by six (6) feet and he needs two (2) to be effective.

BURTON TOWNSHIP

BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

Mr. Vecchio asks about the use of the building located in front of the home. Mr. Miller states it is his shop and barn.

With no further testimony Chairman Snyder reviews the factors for an Area Variance:

- 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? **Mr. Miller responds "yes."**
- B. Whether the variance is substantial? **Mr. Miller responds "yes."**
- 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? **Mr. Miller responds "other neighbors have panels, but not in the front yard." Inspector Gruber confirms one other panel on Durkee Road. It conforms with zoning. Mr. Miller states the panel does not harm the neighborhood in any way.**
- D. Whether the variance would adversely affect the delivery of governmental service? **Mr. Miller responds "no."**
- E. Whether the lot owner's purchased the lot with the knowledge of the zoning restriction. **Mr. Miller responds "no, he was not aware."**
- F. Whether the lot owner's predicament feasibly can be obviated through some method other than a variance? **Mr. Miller responds "no."**
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance? **Mr. Miller responds "no." Chairman Snyder asks if the variance is granted, the belief is it will not contradict the zoning. Mr. Miller responds "correct."**

Mr. Nelson asks what problems will be caused by not having the panels. Mr. Miller states that he would have to charge his batteries by taking them to work or by a generator, which would be inconvenient. The batteries are used for lighting and buggy flashers and signals.

Chairman Snyder asks what energy sources are used for the following:

- Cooking - uses a propane stove.
- Heating - uses wood burning stove.
- Refrigerator - propane fuel.
- Hot water heater - propane fuel.

At this time, Chairman Snyder opens for testimony from other attendees.

BURTON TOWNSHIP

BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

Robert Umholtz of 15000 Durkee Road is affirmed. Mr. Umholtz states his driveway is located across the street from Mr. Miller's. He provides a digital photo. Chairman Snyder enters this photo into record as Exhibit #1. Exhibit #1 depicts the view from Mr. Umholtz driveway and illustrates how tall the trees are behind Mr. Miller's buildings. Mr. Umholtz states that if the panels were moved closer to the buildings, the trees would need to come down.

Mr. Skeen asks if he finds the panels offensive. Mr. Umholtz states "not at all." Mr. Umholtz compliments the upkeep of the property, and attests that it is maintained very well. However, mentions a property two (2) down from Jarred Miller, Burton Township Trustee, where giant piles of debris sit in the yard. He states he drives past it on his way to Hale Road and he considers that property offensive.

Chairman Snyder asks Mr. Miller if Exhibit #1 is a fair representation of his property. Mr. Miller answers "yes." Chairman Snyder asks if Exhibit #1 accurately depicts the height of the trees. Mr. Miller answers "yes."

Chairman Snyder states that his interpretation from the photo due to the height of the trees, the panels could not be moved further away from the road because it will cause sunlight accessibility issues. Both Mr. Miller and Mr. Umholtz nod in agreement.

Philip C. Miller of 15145 Durkee Road is affirmed. He states that solar energy is being used more among the Amish community due to the safety issues surrounding the large, white fuel tanks. Further stating that the fire department considers them an explosive hazard within the home and has led the Church to allow battery powered lights within the homes. He states that solar panels are a safer alternative. He comments there was an accident due to a fuel tank a few years ago on Peters Road. Mr. Philip Miller attests that during the winter the panels get covered with snow and must be cleared to be efficient. He believes that having to climb up on a roof in the winter to clear the panels is also a safety hazard and could cause serious accidents. Having them on a pole allows them to be cleared from the ground with a scraper.

Mr. Miller agrees with Philip Miller's testimony.

Chairman Snyder states the role of the BZA related to an area variance is to grant or deny the request, the BZA can not attach requirements to the condition. One of the zoning reasons for not having panels in front is they are unsightly. Chairman Snyder states that the BZA cannot require a buffer, however if Mr. Miller had plans to install a buffer that would help with the request. Mr. Miller states he plans to take down the dying maple trees and replace them with a row of pine trees along the road. He intends to complete this within a few years.

With no further testimony and no further questions from the Board, Chairman Snyder closes the public portion of the hearing at 7:39 p.m. and the Board enters into private deliberation.

BURTON TOWNSHIP

BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

At 7:47 p.m. the public hearing is reopened and Chairman Snyder entertains a motion.

Mr. Vecchio moves that the Burton Township Board of Zoning Appeals grant a variance to Andrew J. Miller as described in Application #1529-21 for the property at 14995 Durkee Road in Burton Township, this being Parcel #04-151043. Applicant is requesting an area variance from the Burton Township Zoning Resolution as amended August 19, 2019 from Article IV, Section 402.3, Paragraph J, Subsection 2, requiring free standing solar energy panels and/or solar arrays shall not be located in front of a principle building or structure in a Residential District. This variance will allow applicant to place a freestanding solar energy panel in front of the primary dwelling.

Chairman Snyder recommends amending the motion to state the current panels will remain in the location depicted in Exhibit A.

Mr. Vecchio accepts the recommendation and amends his motion.

Chairman Snyder further recommends to include "no additions or alterations."

Mr. Vecchio accepts the recommendation and amends his motion and moves moves that the Burton Township Board of Zoning Appeals grant a variance to Andrew J. Miller as described in Application #1529-21 for the property at 14995 Durkee Road in Burton Township, this being Parcel #04-151043. Applicant is requesting an area variance from the Burton Township Zoning Resolution as amended August 19, 2019 from Article IV, Section 402.3, Paragraph J, Subsection 2, requiring free standing solar energy panels and/or solar arrays shall not be located in front of a principle building or structure in a Residential District. This variance will allow applicant to keep the existing, freestanding, six (6) by six (6) solar energy panel in front of the primary dwelling as represented in Exhibit A. This variance does not allow for any additional panels or alterations.

Mr. Skeen seconds the motion. Chairman Snyder calls for discussion. With no discussion on the motion it goes to a vote.

Roll Call Vote: Tim Snyder - yes, Alan Skeen - yes, John Nelson - yes, Len Fife - yes, Frank Vecchio - yes. All in favor. None opposed. Motion passed.

Chairman Snyder entertains a motion to accept the Findings of Facts as read. Mr. Skeen moves to accept as written.

Mr. Fife seconds the motion. Chairman Snyder calls for discussion. With no discussion on the motion it goes to a vote.

Roll Call Vote: Tim Snyder - yes, Alan Skeen - yes, John Nelson - yes, Len Fife - yes, Frank Vecchio - yes. All in favor. None opposed. Motion passed.

Chairman Snyder announces that the request for an area variance has been granted. With nothing further to discuss Chairman Snyder concludes this portion of the public hearing at 8:00 p.m.

BURTON TOWNSHIP BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

OTHER BUSINESS

The Board reviews the minutes from August 10, 2021, Application #1527-21 submitted by John Detweiler & Raymond Miller Jr.. Mr. Dallos moves to approve the minutes as written. Mr. Fife seconds the motion. Chairman Snyder calls for discussion. With no discussion on the motion it goes to a vote.

Voice Vote: All in favor. Mr. Skeen abstains. None opposed. Motion passed.

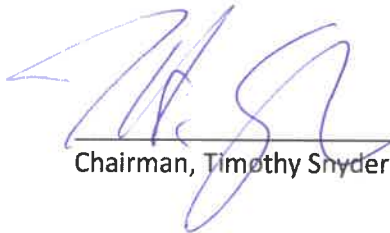
Note: Due to a procedural error by the Chair, these minutes will be brought up for approval at the next meeting.

NEXT MEETING

There is no new business at this time. The next meeting will be scheduled as needed.

ADJOURNMENT

With no further business to discuss, Chairman Snyder entertains a motion to adjourn. Mr. Skeen so moves. Mr. Vecchio seconds the motion. Voice vote: All in favor and the meeting concludes at 8:16 p.m.

 12/7/21

Chairman, Timothy Snyder Date

Katie O'Neill 12/7/21

Secretary, Katie O'Neill Date