

# BURTON TOWNSHIP

## BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

---

**Date:** February 22, 2022

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

**Place:** Burton Township Administration Building

**Purpose:** Public Hearing to consider Application #1546-22 submitted by Richard & Mary Lambert, request for an area variance.

**Board Member(s) Present:** Chairman Tim Snyder, Alan Skeen, John Nelson, Marilyn Percic, 1<sup>st</sup> Alternate Frank Vecchio, 2<sup>nd</sup> Alternate Joe Dallos, Secretary - Katie O'Neill.

**Absent:** Leonard Fife - excused.

**Attendees:** Richard Lambert, Mary Lambert, Ken Burnett, Rick Gruber.

### PUBLIC HEARING

Chairman Snyder calls the public hearing to order at 7:06 p.m.

Roll Call shows Board Members: Tim Snyder, Alan Skeen, John Nelson, Marilyn Percic, 1st Alternate Frank Vecchio & 2nd Alternate Joe Dallos to be present. Board Member Leonard Fife is absent and 1st Alternate Frank Vecchio will fill his position. Voting Members included: Tim Snyder, Alan Skeen, John Nelson, Marilyn Percic & Frank Vecchio.

Chairman Snyder apologizes for his tardiness, explaining an earlier engagement prevented his timely arrival. He announces the purpose of the public hearing which is to consider Application #1546-22, submitted by Richard & Mary Lambert. They are requesting a variance to create four (4) lots which do not meet the required three hundred (300) foot lot width at the building setback. They are seeking relief from Article IV, Section 402.4(A), Minimum Lot Width, from the Burton Township Zoning Resolution as amended August 14, 2019. They ask that this be granted for the lot located at 15450 Claridon Troy Road, Burton Township, Ohio, also known as Parcel #04-151024.

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

Chairman Snyder cautions the Board that any information provided at the public hearing held on December 7, 2021, for a similar Application #1542-21 (submitted by Richard & Mary Lambert) shall not be considered or used to decide this case. Only the information presented at this hearing [Application #1546-22] shall be considered.

Mary Lambert residing at 15580 Claridon Troy Road in Burton Township, Ohio is sworn in. Chairman Snyder presents Mrs. Lambert with a packet, consisting of eight (8) pages of documentation submitted with Application #1546-22. He asks Mrs. Lambert to review the packet and she confirms the documentation is inclusive to what she submitted. Chairman Snyder states that the first part of the application is notarized, however the second part is not. To ensure that the Board has all the

# BURTON TOWNSHIP

## BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

### MEETING MINUTES

---

information on record, he asks Mrs. Lambert to initial each page and enter the packet into record. She does so and the packet is accepted as Exhibit #1.

Chairman Snyder states the request is for an area variance for which the practical difficulty standard shall be applied. Mrs. Lambert states she thought the request was for a use variance. Chairman Snyder states it is for an area variance.

Before Mrs. Lambert begins her testimony, Mr. Dallos presents an alternative option for the property under review. Mr. Dallos states he was a developer and builder during the 1960's through the 1980's. Through his years of experience he had never heard of the term "flag lot" until recently. Referring to Exhibit A, he suggests installing a large driveway (denoted by the black "L" shape) on the property allowing up to five (5) ingress/egress points to access individual lots. Mr. Dallos states by doing this design, no variance is needed and Mrs. Lambert does not need Board approval. He states the lots meet the three hundred (300) foot & five (5) acre requirements and eliminates the need for flag lots. Chairman Snyder asks if he is suggesting a shared driveway. Mr. Dallos illustrates the individual driveways (small "||" marks) branching off from the larger driveway, stating that this design would only have two (2) driveways onto Claridon Troy Road. Mr. Dallos reiterates that it is just an alternative suggestion.

Chairman Snyder states the Board considers all alternatives and asks Mrs. Lambert if she would like to provide comment on the suggestion.

Mrs. Lambert appreciates the time spent on the design. She states she was a builder and developer of subdivisions during the 1990's & 2000's. In her experience the County [Geauga] would not approve this design because of the private road [large driveway]. Mrs. Lambert states the slope on this property exceeds the slope on the dedicated road. She states there are several things over the years that have made developing more difficult. Although she thinks it is a good alternative, she states it will not get approved by [Geauga County] Planning Commission.

With no further comments, Mrs. Lambert begins her testimony. She states the proposal is to create four (4) buildable lots from the thirty six (36) acre parcel. Each lot will have a driveway onto Claridon Troy Road (also known as Route 700). Each lot would be approximately two hundred and seventy seven (277) feet wide and no less than five (5) acres.

Chairman Snyder explains that when the Board grants a variance it is specific. Approximations are not specific enough. Mrs. Lambert states the minimum of the lots will be two hundred and seventy five (275) feet. Chairman Snyder responds "the Board needs to know exactly what the width will be," stating that a range would be satisfactory. By Mrs. Lambert's calculation the width of the lots will be two hundred and seventy seven (277) feet.

Continuing her testimony, Mrs. Lambert states six (6) lots can be created to comply with zoning, with three (3) of them being flag lots. The home sites for these lots would be eight hundred (800) feet from the road due to the zoning requirements. She refers to page 6 of Exhibit #1 to illustrate this option. Mrs. Lambert states the result of four (4) lots at two hundred and seventy seven (277) feet of frontage is a

# BURTON TOWNSHIP

## BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

---

seven point seven percent (7.7%) reduction from the required three hundred (300) feet. Adding that the traditional rectangular lots are a better alternative for the following reasons:

- It is better suited to access for public services.
- There would be fewer driveways onto Claridon Troy Road.
- The lots would be consistent with what is currently there.
- The lots would be easier to build on because the home site would not be limited by topography.
- The mature forest areas on the property could be preserved and would not have to be cleared.

Referencing Form #12, the Appeal Application, Mrs. Lambert focuses on Item N-4 located on page three (pg 3). She states that in the case of an area variance practical difficulties standards shall apply and the factors to be considered include, but are not limited to the following items. Mrs. Lambert emphasizes the wording “shall” apply, stating not that they “can” or they “may”, meaning that the factors must be considered. Mrs. Lambert proceeds to respond to the factors listed in this section. Her responses are as such:

- She does not feel the lots will have an issue yielding a reasonable return.
- She does not believe seven point seven percent (7.7%) is substantial.
- The essential character of the neighborhood would not be altered and the adjoining properties would not suffer detriment as a result. She references page eight (pg 8) of Exhibit #1 which provides the frontages of all the lots in the neighborhood. She states that all but two (2) of the lots have less than the required frontage.
  - Chairman Snyder comments that the existing lots are non-conforming lots of record. He states the goal of zoning is to *not* create additional lots that do not conform. Mrs. Lambert states that the Board “shall” consider the character of the neighborhood, not that they may.
- The variance would improve the delivery of governmental services.
- She was not aware of the stacking restrictions implemented by the [Geauga] County. She explains that the restriction is not easily discovered, commenting that the Planning Commissioner, Linda Crombie took time to locate it.
  - Chairman Snyder explains that the Board bases decisions upon the Burton Township Zoning Resolution, not the Geauga County regulations. Mrs. Lambert states the restriction was unknown to them and the Board shall consider that point.

Mrs. Lambert continues her testimony and addresses the topography of the property in more detail stating there would be fifty (50) feet of fall from the road to the building sites for the flag lots. This would create driveways that would be problematic for public services such as ambulances and fire trucks. Mrs. Lambert states going down the hill towards the rear home sites is a thirty percent (30%) slope, combined with only a sixty (60) foot requirement, the driveways have no other alternative but to go directly back to the point where the lot widens out. In her experience, Mrs. Lambert has learned that public roads are not permitted to exceed a twelve percent (12%) grade. Chairman Snyder explains that descriptions of the properties are acceptable for consideration, however the appellant is unable to describe what laws are in place without written justification of such laws. Mrs. Lambert states she is testifying based on her past experience as a developer. Chairman Snyder states the testimony is more

# BURTON TOWNSHIP

## BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

---

persuasive with written justification. To illustrate the slope, Mrs. Lambert uses South Cheshire/Route 168 hill as a comparison to the slope on their property. She states that it is impossible to access the rear building sites with a normal vehicle, adding that this condition is unique to the property, not ordinarily found. Mrs. Lambert states that flag lots may work in many locations, however for this specific property it is not a reasonable alternative due to the severe topography.

Referring to the map on page eight (pg 8) of Exhibit #1, Mrs. Lambert explains that the farm across the street has been divided in compliance with zoning. She states the topography across the street is not as severe and does not present the same issues as their property. Although it complies with zoning, she asks if the division of the farm is a better visual alternative and does it really conform to the existing character of the neighborhood.

Chairman Snyder asks Mrs. Lambert to elaborate her meaning of conformity. Mrs. Lambert responds that she is speaking to the spirit and intent of the neighborhood and that the Board shall consider the essential neighborhood and whether it would substantially alter and if the adjoining properties would suffer a detriment in result of the variance.

Chairman Snyder asks whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Mrs. Lambert responds "yes".

Chairman Snyder asks 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. Mrs. Lambert responds "no," further stating that in discussion with their neighbors, if they had an issue they would be present. Chairman Snyder states the Board can only consider testimony provided by individuals present, they can not accept a conversation held outside of the public hearing as evidence.

Continuing her testimony, Mrs. Lambert states that the proposed lots exceed the size of most of the lots in the neighborhood and exceed the frontage of all but two (2) lots of existing frontages in the half mile stretch of land in the surrounding area listed below:

- seven (7) lots with two hundred (200) feet of frontage
- five (5) lots with sixty (60) feet of frontage
- one (1) lot with ninety (90) feet of frontage
- one (1) lot with one hundred (100) feet of frontage
- one (1) lot with one hundred and forty three (143) feet of frontage
- one (1) lot with two hundred and thirty nine (239) feet of frontage
- one (1) lot with two hundred and forty (240) feet of frontage
- two (2) lots with two hundred and seventy six (276) feet of frontage
- two (2) lots with three hundred (300) feet of frontage

Chairman Snyder asks Mrs. Lambert to elaborate on the meaning of five plus (5+) acres as denoted on the proposed four (4) lots within Exhibit #1. Mrs. Lambert states that the surveyor has not refined those

# BURTON TOWNSHIP

## BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

---

details at this point, but she can testify that the lots will be greater than five (5) acres. Chairman Snyder reiterates the more specific the information the more persuasive for the Board.

Rick Gruber, Burton Township Zoning Inspector, residing at 14369 Broadwood Drive in Burton Township, Ohio is sworn in. Inspector Gruber states that the purpose of the hearing is to rule on the distance across the parcel, as long as they meet the requirement of five (5) acres or more they are free to do as they wish. Inspector Gruber feels this topic is not relative to the discussion. Chairman Snyder states in the attempt to persuade the Board, if the intent is to create large lots, this may be unfavorable to some Board Members. Inspector Gruber states zoning requires five (5) acres, it does not matter if the lots are larger. Chairman Snyder responds that it may matter to the voting Board Members.

Mrs. Lambert explains that at this point they can not say for certain but she expects the north lots to be approximately eight (8) acres each. The south lots she expects to be as close to five (5) acres as possible but not less than five (5) acres. She states this will be determined during the survey.

Mrs. Lambert states that forestry is important in this case. They intend to obtain a conservation easement for the remainder of the lot. They want to ensure the mature trees are preserved and can never be clear cut. Chairman Snyder asks if this is directly related to the lot split. Mrs. Lambert states that the area for intended conservation is adjacent to the proposed lot split.

Mr. Skeen points out that the evidence presented refers to frontage, however the Board will decide on the lot width at the building setback line. He wants to clarify and ensure that the frontage is not the issue. Mrs. Lambert states that the lots would maintain the same distance to the building site. Mr. Skeen understands but wants to clarify. He states the minimum frontage required is sixty (60) feet, but three hundred (300) feet is required for the building setback. Upon this clarification it is agreed that the incorrect terminology was being used.

Although some factors have been addressed, for clarity of the record, Chairman Snyder reviews all the factors for an Area Variance with the appellants.

- 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? **Mrs. Lambert responds "certainly." She states this option will yield a better return than the three hundred and sixty (360) feet and will offer one (1) more family the opportunity to live in Burton. Chairman Snyder asks if the variance is not granted what will be done. Mrs. Lambert states the alternative is to do the flag lots which would create more driveways onto Claridon Troy Road. They prefer to leave that alone. Flag lot option would affect neighbors. Mrs. Lambert states the proposed lots take themselves and their neighbors into consideration. She states they could do more than four (4) lots, however**

# BURTON TOWNSHIP

## BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

---

**they want to create nice lots. Mrs. Lambert states as one of the people responsible for writing the zoning code in the 1970's, the intent was to create quality lots.**

- B. Whether the variance is substantial? **Mrs. Lambert states seven point seven percent (7.7%) is not substantial.**
- 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? **Mrs. Lambert responds "no." She states it would improve it, plus it is an improvement upon the surrounding frontages listed previously.**
- D. Whether the variance would adversely affect the delivery of governmental service? **Mrs. Lambert responds "no." She states the proposed lots will be much easier to access at one hundred and seventy (170) feet than the eight hundred (800) foot setback of the flag lots.**
- E. Whether the lot owner purchased the lot with the knowledge of the zoning restriction. **Mrs. Lambert states the only restriction they were unaware of was the stacking of flag lots. She points out that the flag lots were in existence when the land was purchased.**
- F. Whether the lot owner's predicament feasibly can be obviated through some method other than a variance? **Mrs. Lambert states they could do flag lots, however the proposed four (4) lots is a better alternative for them and for their neighbors. It will allow buyers the highest quality building sites.**
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance? **Mrs. Lambert responds "yes."**

A discussion between Mrs. Percic and Mrs. Lambert ensues. Mrs. Lambert explains in more detail the ownership and use of her daughter's property to clarify the situation with Mrs. Percic.

Mrs. Percic asks why not create three (3) lots. She states that a variance would not be needed for three (3) lots. Mrs. Lambert states that three (3) lots would be an excessive size. Mrs. Lambert states that if needed, deed restrictions can be put in place as to where the houses can be built on the lots.

Chairman Snyder asks Mrs. Lambert if she would like to provide her experience in the land development industry for the record. Mrs. Lambert responds "yes," stating that she has been developing since 1993 and provides the following list of development projects she has completed:

- Umberfield Springs (11 lots - end of Spring Street)
- East side of Colony Lane
- Auburn Ridge (42 lots - off of Rt 44)

# BURTON TOWNSHIP

## BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

---

- Auburn Glenn (30-40 lots - Bartholomew Road)
- Auburn Springs (30-40 lots - Stafford Road)
- Sherman Forest (30-40 lots - Sherman Road)
- Millcreek of Munson (30-40 lots - Wilson Mills Road)
- Moreland (57 lots - Ravenna Road)
- Ascot Park (42 lots - Rt 44)
- Shannon Court (Burton Village)

With no further testimony from the appellants and nothing further to add from Inspector Gruber, Ken Burnett, residing at 15529 Claridon Troy Road in Burton Township, Ohio is sworn in. Mr. Burnett attends the meeting as an adjacent property owner (as Trustee of the Burnett Family estate) and acknowledges also that he is a Burton Township Trustee.

Mr. Burnett states as a resident he and his family are in favor of what the Lambert's are proposing. He likes this approach because he feels it is a slight variation from the required minimum. As a Trustee, he also likes this approach because it provides four (4) additional residential parcels to collect taxes on, which increases the tax base and return for the Township. His one concern as a Trustee relates to future applications and how the Township defends each decision. He states that a proper defense in this specific case would be to increase the acreage since the minimum width requirement is not being met. Mr. Burnett feels that by requiring the lots to be a minimum of five and a half (5.5) acres, it adds approximately seventy five (75) feet to the length of the lots. This would still provide the Lamberts with the appropriate acreage behind and to the North of their property to buffer them. Mr. Burnett states as a Trustee, he could defend the trade off for future applications.

Mrs. Lambert responds to Mr. Burnett's testimony, stating that the lots will probably be five and a half (5.5) acres, but some of the lots will be more than that. At this time she is not fully prepared to discuss the specific acreage of each lot. Chairman Snyder states that while the Board can not require the lots to be more than the minimum five (5) acres, the appellants can use this as an inducement in their testimony.

Mrs. Lambert states the South lots will be right at five and a half (5.5) acres due to the proximity to their property, and the North lots will be more than five and a half (5.5) acres because they are farther from their property. As an additional note, Inspector Gruber states that the minimum acreage requirement must exist within the right-of-way, meaning that the total area will be approximately five and a quarter (5.25) acres including the right-of-way<sup>1</sup>. Mrs. Lambert agrees.

A discussion on details of exact feet ensues between Mrs. Lambert and Mr. Burnett for clarification purposes.

# BURTON TOWNSHIP

## BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

---

Chairman Snyder refers to the survey provided within the application to clarify the listed frontage of one thousand, one hundred and ten (1,110) feet, which split four (4) ways becomes two hundred and seventy seven and half (277.5) feet of frontage per lot. Mrs. Lambert agrees and confirms.

In closing, Mrs. Lambert states in order for them to attach the back fifteen (15) acres to their existing property they need a connection and if the South lots extend too far back, they will lose that connection. She also points out that by creating these four (4) lots it eliminates the opportunity to develop their farm property.

For the record Chairman Snyder states the only adjacent property owner in attendance is Mr. Burnett.

As the Board has no further questions and there is no further testimony, Chairman Snyder closes the public portion of the hearing at 8:15 p.m. and the Board enters into private deliberation.

At 8:28 p.m. the public hearing is reopened and Chairman Snyder entertains a motion.

Mr. Skeen moves that the Burton Township Board of Zoning Appeals grants a variance to Richard & Mary Lambert as described in Application #1546-22 for the property at 15450 Claridon Troy Road, Burton Township. This being Parcel #04-151024. Applicants are requesting an area variance from the Burton Township Zoning Resolution as amended August 19, 2019, Article IV, Section 402.6, Paragraph A, requiring the minimum lot width at building front yard set back line to be three hundred (300) feet. This variance will allow applicants to create four (4) parcels. Each parcel shall be a minimum of five (5) acres with a lot width at building set-back line at a minimum of two hundred and seventy seven (277) feet instead of the required 300 feet for a variance of twenty three (23) feet.

Mr. Vecchio seconds the motion. Chairman Snyder calls for discussion. No discussion ensues on the motion and Chairman Snyder calls for a vote.

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

Chairman Snyder announces the application for the area variance has been granted. He explains that the people have thirty (30) days to appeal the Board's decision. Therefore, if appellants move forward before that thirty (30) window, they do so at their own risk.

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

Mrs. Percic seconds the motion. Chairman Snyder calls for discussion. No discussion ensues on the motion and Chairman Snyder calls for a vote.

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



# BURTON TOWNSHIP BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

---

With nothing further to discuss Chairman Snyder concludes this portion of the public hearing at 8:32 p.m.

### OTHER BUSINESS

The Board reviews the minutes from the Organizational meeting held on February 8, 2022. Mr. Skeen moves to approve the minutes as written. Mr. Nelson seconds the motion. Chairman Snyder calls for discussion. No discussion ensues on the motion and it goes to a vote.

Voice Vote: All in favor. None opposed. Motion passed.

The Board reviews the minutes from February 8, 2022, Application #1539-21 submitted by Patrick O’Neill. Mrs. Percic moves to approve the minutes as written. Mr. Skeen seconds the motion. Chairman Snyder calls for discussion. No discussion ensues on the motion and it goes to a vote.

Voice Vote: All in favor. None opposed. Motion passed.

### NEXT MEETING

As there are no new applications to review, the next meeting will be scheduled as needed.

### ADJOURNMENT

With no further business to discuss, Chairman Snyder entertains a motion to adjourn. Mr. Vecchio so moves. Mrs. Percic seconds the motion. Voice vote: All in favor, none opposed, and the meeting concludes at 8:51 p.m.

---

Chairman, Timothy Snyder                      Date

---

Secretary, Katie O’Neill                      Date

<sup>1</sup> “Lot, minimum area - means the total area, expressed in acres, included within the boundary lines of a lot computed exclusive of any portion of the right-of-way of any abutting public or private road”, Burton Township Zoning Resolution amended August 14, 2019, Article II, Section 201.0, page 8.