

BURTON TOWNSHIP BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

Date: April 19, 2022

Time: 7:00 p.m.

Place: Burton Township Administration Building

Purpose: Public Hearing to consider Application #1549-22, submitted by John Mark Byler, request for an area variance.

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

Absent: Marilyn Percic & Joe Dallos - both excused.

Attendees: Georgia Klemencic, John Mark Byler, Al Schienke, Linda Schienke, Joanne George, Bill George, Patrick Breen* (*denotes attendance via phone conference)

PUBLIC HEARING

Chairman Snyder calls the public hearing to order at 7:30 p.m.

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

Secretary O'Neill confirms that the public has been notified through newspaper publication.

Chairman Snyder announces the purpose of the public hearing which is to consider Application #1549-22, submitted by John Mark Byler requesting an area variance to create two (2) single family parcels exclusive of R.O.W. (right of way) .258 acres of 5.173 acres in R.O.W. for each parcel. This being identified as Parcel #04-125000.

Secretary O'Neill confirms that all adjacent property owners have been notified.

John Mark Byler residing at 15806 Jug Street, Burton Township is affirmed. He explains that he would like to split the ten point three (10.3) acres he currently owns into two (2) parcels. He states his in-laws would live in the existing residence on the parcel and he intends to build a new residence farther back on the second parcel. Mr. Byler states with ten point three (10.3) acres, he thought he had enough to split in half, but he does not.

Mr. Vecchio asks if the variance is reduced due to the R.O.W. from the ten (10) acres? Mr. Byler responds "yes." Mr. Vecchio confirms that each parcel would be four point nine, one, five (4.915) acres instead of the five (5) acres required for each parcel. Mr. Byler confirms "yes."

Chairman Snyder asks for the current area of the parcel. Mr. Byler states the current parcel is ten point three, three (10.33) acres. Chairman Snyder confirms the reason for the request is due to the area being

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reduced due to the R.O.W. Mr. Byler states "yes." Chairman Snyder asks that the intention is to create two (2) parcels for the purpose of residential use? Mr. Byler responds "yes." He states that each parcel will have a single family home. Chairman Snyder asks what currently exists on the property? Mr. Byler states that the property has a single family residence and a three (3) car garage.

Chairman Snyder refers to the drawing submitted with the application, asks Mr. Byler to initial the drawing, and it is enter into record as Exhibit #1. Chairman Snyder asks if Exhibit #1 illustrates the split of the two (2) parcels? Mr. Byler responds "yes, that is correct." Chairman Snyder asks if Exhibit #1 has been submitted to the Planning Commission? Mr. Byler responds "no."

Chairman Snyder and Mr. Byler review 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. Byler responds "yes."**
- B. Whether the variance is substantial? **Mr. Byler responds "no."**
- 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. Byler responds "no."**
- D. Whether the variance would adversely affect the delivery of governmental service? **Mr. Byler responds "no."**
- E. Whether the lot owner's purchased the lot with the knowledge of the zoning restriction. **Mr. Byler responds "no, I was not."**
- F. Whether the lot owner's predicament feasibly can be obviated through some method other than a variance? **Mr. Byler responds "no."**
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance? **Mr. Byler responds "yes."**

Chairman Snyder calls for questions from the Board.

Mr. Nelson asks for clarification. He does not understand how one loses acreage when splitting a parcel.

Rick Gruber, Zoning Inspector, residing at 14369 Broadwood Drive in Burton Township, is sworn in. He explains of the ten point three, four, five (10.345) acres, approximately a half ($\frac{1}{2}$) an acre of the total acreage resides in the R.O.W. Inspector Gruber states when you split this parcel down the middle approximately a quarter ($\frac{1}{4}$) acre is taken into consideration for the R.O.W. leaving four point one, nine,

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five (4.915) acres, just shy of the five (5) acre requirement. He states that Mr. Byler is not losing acreage, just that the acreage exists within the R.O.W.

Mr. Skeen states that the minimum lot requirement per the zoning resolution, does not include the acreage in the R.O.W. Mr. Nelson asks what acreage amount will be listed on the title if the parcel is split. Inspector Gruber states that five point one, seven, three (5.173) acres will be listed with point two, five, eight (.258) acres within the R.O.W. Inspector Gruber states that the definition requirement is exclusive of the R.O.W., therefore Mr. Byler's four point nine, one, five (4.915) is point zero, eight, five (.085) shy of the requirement of five (5) acres on each parcel.

With no further questions from the Board, Chairman Snyder opens the hearing to attendee testimony.

Joanne George, residing at 15811 Jug Street, Burton Township is sworn in. Mrs. George testifies that she lives across the street from Mr. Byler. Her property consists of three point five, six (3.56) acres, and other surrounding parcels in the area are approximately one and half (1.5) acres. She states that these surrounding parcels were split up before the five (5) acre requirement was in effect. Mrs. George states that she does not have an issue with this request being granted.

Georgia Klemencic, residing at 15776 Jug Street, Burton Township, is sworn in. Mrs. Klemencic, adjacent property owner to the north, has a question and asks where the driveway(s) will be located. Using Exhibit #1, Mr. Byler outlines the existing and proposed driveways for each parcel in red, indicating one (1) driveway per parcel.

Mr. Skeen states that the Board is not approving the location of any structures or driveways, only the request to create two (2) parcels.

Mrs. Klemencic asks if Mr. Byler is losing five (5) acres. Chairman Snyder clarifies by stating that the definition in the zoning resolution for lot coverage refers to property minus the R.O.W. Further stating that Mr. Byler has the five (5) acres, however a portion of it resides in the R.O.W. By reducing that portion that exists within the R.O.W. the result is less than five (5) acres.

Clear on the proposed driveway and the definitions, Mrs. Klemencic states that she is not in favor of this request. She states the length of the proposed driveway is a concern. The location of the proposed home is near a marsh and she is unsure what the effects of a septic system and new construction will do to the surrounding properties. Inspector Gruber states that Exhibit #1 illustrates where the proposed well and septic system will be located for the proposed residence.

Al and Linda Schienke are in attendance, and have come for informational purposes. They are adjacent property owners and reside north of Mrs. Klemencic. Mr. Schienke asks if [Geauga] County has approved the lot for septic. He states the topography of the area is not flat.

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Chairman Snyder explains that there has been no approval from Geauga County yet. The Board will decide whether to grant or deny the request for the lot split, which is the first step in the process.

Mrs. Klemencic asks if the Board has received anything from the Breen Family indicating their opinion on the request. Secretary O'Neill presents an email received from Kathleen Breen, an adjacent property owner, to Chairman Snyder.

Chairman Snyder explains that he can not accept a written email as testimony.

Mrs. Klemencic provides Kathleen Breen's phone information. Chairman Snyder's outgoing call is unsuccessful. Inspector Gruber provides Patrick Breen's (son of Kathleen Breen) phone information and Mr. Breen is contacted by the Board at 7:59 p.m. via phone.

Patrick H. Breen, residing at 19601 South Woodland, Shaker Heights, Ohio, is sworn in over the phone. He states his phone number for the record as 216-318-4105, and that he is testifying as the affected property owner at 14540 Hubbard Road, Burton Township. Mr. Breen states he and his family were unable to attend the public hearing as they are out of town. Chairman Snyder reads the email aloud and Mr. Breen affirms the statements within the email. In addition, Mr. Breen expresses his regrets of not having the opportunity to speak with Mr. Byler prior to the hearing to discuss his family's concerns. However, he states that their concerns have not changed. Chairman Snyder enters the email into record as Exhibit A. With no further testimony from Mr. Breen and no questions from the Board, Mr. Byler or the attendees, Mr. Breen is invited to stay on the call for the remainder of the hearing. Mr. Breen does so.

Mr. Nelson asks Mr. Byler to confirm that he intends to have one (1) household per each five (5) acre lot, not multiple households on one (1) five (5) acre lot. Mr. Byler confirms "yes."

Mr. Vecchio asks if Mr. Byler intends to farm the property? Mr. Byler states he will have a horse on the property but he does not plan to farm.

Chairman Snyder addresses Mr. Byler, stating that two (2) property owners have expressed concerns on water run-off. Chairman Snyder asks if he has any concerns regarding the same issue or if he would like to address the concerns. Mr. Byler states that he does not have a concern on this issue as the septic system is designed so that there is little concern with the waste water.

Chairman Snyder asks if there are any current run-off issues on the property? Mr. Byler states he is not aware of any. Mr. Vecchio asks if the property is currently wooded and if so is there potential for clear cutting? Mr. Byler responds that the area is wooded, and he would clear some of the area but not all of it. Mr. Vecchio asks if the majority will stay as is? Mr. Byler responds "yes."

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Mr. Nelson asks Mr. Byler if his property is zoned R-5? Mr. Byler and Inspector Gruber both answer "yes."

As the Board has no further questions, and there is no follow-up questions nor testimony from the attendees, nor Mr. Breen, Chairman Snyder closes the public portion of the hearing at 8:08 p.m. and the Board enters into private deliberation.

At 8:15 p.m. the public hearing is reopened and Chairman Snyder entertains a motion.

Mr. Vecchio moves that the Burton Township Board of Zoning Appeals grants a variance to John Mark Byler as described in Application #1549-22 for the property at 15806 Jug Street, Burton Township. This being Parcel #04-125000. Applicant is requesting an area variance from the Burton Township Zoning Resolution as amended August 19, 2019, Article IV, Section 402.5 requiring the minimum lot acreage to be five (5) acres. This variance will allow applicant to create two (2) single family parcels, with a minimum lot area of 4.915 acres in lieu of the required five (5) acres as per Article IV, Section 402.5. Mr. Skeen 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, 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 during deliberation. Mr. Skeen moves to accept as written.

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 the application for the area variance has been granted. He explains that there is a thirty (30) day window for someone to appeal the Board's decision. Therefore, if appellants move forward within that thirty (30) window, they do so at their own risk.

With nothing further to discuss Chairman Snyder concludes this portion of the public hearing at 8:18 p.m.

OTHER BUSINESS

The Board reviews the minutes from February 22, 2022, Application #1546-22 submitted by Richard & Mary Lambert. Mr. Skeen moves to approve the minutes as written. Mr. Vecchio 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

The next meeting is scheduled for Monday, May 23, 2022 at 6:00 p.m. This will be a joint meeting between the Board of Trustees, Board of Zoning Appeals, Zoning Commission and Zoning Inspectors.

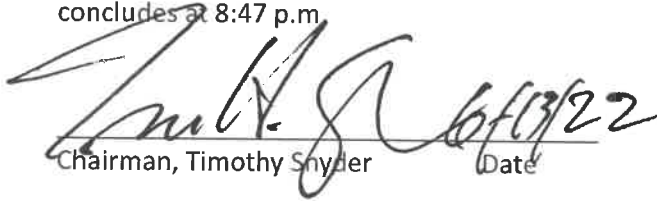
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ADJOURNMENT

With no further business to discuss, Chairman Snyder entertains a motion to adjourn. Mr. Vecchio so moves. Mr. Nelson seconds the motion. Voice vote: All in favor, none opposed and the meeting concludes at 8:47 p.m.


Chairman, Timothy Snyder Date 6/13/22


Secretary, Katie O'Neill Date 6/13/22