

BURTON TOWNSHIP

BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

Date: June 13, 2022

Time: 7:00 p.m.

Place: Burton Township Administration Building

Purpose: Public Hearing to consider Application #1556-22, submitted by Douglas Kormos, request for a(n) area variance.

Board Member(s) Present: Chairman Tim Snyder, John Nelson, Leonard Fife, Marilyn Percic, 2nd Alternate Joe Dallos, Secretary - Katie O'Neill.

Absent: Alan Skeen & 1st Alternate Frank Vecchio - both excused.

Attendees: Douglas Kormos, Micheal Daily, Thomas Zimmerman, Nick Gorris, Rick Gruber.

PUBLIC HEARING

At 7:10 p.m Chairman Snyder calls the public hearing to order.

Roll Call shows Board Members: Tim Snyder, John Nelson, Len Fife, Marilyn Percic, 2nd Alternate Joe Dallos to be present. Board Member Alan Skeen and 1st Alternate Frank Vecchio are absent. 2nd Alternate Joe Dallos will fill the open position. As a five (5) member board all present members are voting members.

Chairman Snyder announces the purposes of the public hearing which is to consider Application #1556-22, submitted by Douglas Kormos requesting an area variance to allow a six (6) foot privacy fence opposed to a four (4) foot, and to have the structural posts on the outside facing adjacent residents. He seeks relief from Article IV, Section 402.3, Paragraph C, Subsections 3 & 6, of the Burton Township Zoning Resolution as amended August 14, 2019. Requirements for fences state structural posts & supports shall be erected within the side facing the property being enclosed and shall not exceed four (4) feet in height. He asks that this be granted for the lot located at: 14576 Broadwood Drive in Burton Township, Ohio.

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

Douglas C. Kormos residing at 14576 Broadwood Drive, Burton Township, Ohio is sworn in. Mr. Kormos' opening testimony states he is requesting an area variance for a six (6) foot fence. He states he is aware of his mistake.

Chairman Snyder interjects and asks Mr. Kormos whether he is requesting a variance for the structural posts or withdrawing it from his application. Mr. Kormos asks for clarification on this point. Chairman Snyder provides by stating that the zoning resolution requires the structural posts or the "unsightly side" of a fence to be facing the owner and not the adjacent residents.

Mr. Kormos states that he has agreed to finish the "unsightly side" of the fence to correct this issue. Rick Gruber, Zoning Inspector, confirms this. Chairman Snyder states the information provided makes the structural posts a nonissue for the Board and the only item to consider is the height. For the record

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Chairman Snyder asks if Mr. Kormos would like to amend his application to remove this item from consideration. Mr. Kormos responds "correct."

Chairman Snyder proceeds in the consideration of the request regarding the fence height of six (6) feet opposed to the four (4) foot restriction. He explains that an area variance is considered on the standards of practical difficulty and asks Mr. Kormos to provide evidence towards this standard.

Mr. Kormos testifies that his neighbor has piles of dirt, high weeds and chicken coop that he can see from his front yard. He states if one were to stand in his driveway looking towards his house, your eye is drawn to that area because it's unsightly. He feels it affects the value of his home. He states that if his neighbor were to put up a six (6) foot fence it would be allowed because it is the backyard.

Disagreement between Mr. Kormos and attendees ensues. Chairman Snyder terminates the argument quickly and advises the attendees to only address comments to the Board going forward.

Mr. Kormos continues with his testimony stating that the fence was installed within the property lines of his property and in speaking with Inspector Gruber, he is in agreement that he will finish the other side of the fence. Mr. Kormos states that he had a conversation two (2) years ago with his neighbor in regards to splitting the cost of a fence. He testifies his neighbor was not interested in this option as they had a five (5) year plan to sell.

Chairman Snyder asks Mr. Kormos if four (4) feet is an insufficient height to accomplish his purpose. Mr. Kormos responds "absolutely."

Chairman Snyder and Mr. Kormos 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. Kormos responds "no, it will lower the value."**
- B. Whether the variance is substantial? **Mr. Kormos responds "yes." (this was later changed to "No" through questions by Mrs. Percic)**
- 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. Kormos states once the other side is corrected, the neighborhood will improve. He will not have to look at his neighbor's yard, and they will not have to look at his.**
- D. Whether the variance would adversely affect the delivery of governmental service? **Mr. Kormos responds "no."**
- E. Whether the lot ^{owners}owner's purchased the lot with the knowledge of the zoning restriction. **Mr. Kormos responds "no."**

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- F. Whether the lot owner's predicament feasibly can be obviated through some method other than a variance? **Mr. Kormos responds "no."**

- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance? **Mr. Kormos responds "yes."**

Mr. Kormos adds that the privacy fence will alleviate most of the issues and problems. The fence will not block people from coming in. Mr. Kormos states there are pine trees on that side of the property that are substantially higher and block the view, and were placed for that intent. He adds there are pine trees on the other side for the same purpose.

Chairman Snyder asks if putting in pine trees or shrubs is an alternative option. Mr. Kormos states that they are the filthiest and nastiest trees and he is always cleaning them off of his deck. He testifies that he has four (4) in his yard and he would like to take them all down.

Chairman Snyder opens to questions from the Board. Mrs. Percic states the response to item B of the Ducan Factors within the application states "no," however when asked whether the variance is substantial Mr. Kormos responded "yes." Mrs. Percic asks Mr. Kormos to confirm his answer to this question again. Mr. Kormos states that he misunderstood the question when asked and would like to change his response to "no, the variance would not be substantial."

Referring to the map submitted with the application, Mr. Nelson asks if the fence will span across the three (3) adjacent properties. Mr. Kormos states "no, the portion where he installed the fence does not have any pine trees." He adds the portion installed is twenty four (24) feet and is adjacent to the Zimmerman property. Mr. Nelson asks if the fence will impede line of sight. Mr. Kormos responds "no."

Mrs. Percic asks if there will be an addition to the current fence. Mr. Kormos states the current fence is twenty four (24) feet and he will not add to it.

Micheal Dailey residing at 13034 Kinsman Road, Burton Township, is sworn in. Mr. Dailey is an adjacent property owner. He asks why the variance was not acquired prior to the installation of the fence.

Rick Gruber, Zoning Inspector, residing at 14369 Broadwood Drive, Burton Township, is sworn in. Inspector Gruber explains he addressed Mr. Kormos shortly after the fence was installed last fall. He states it took some time to resolve, the application was submitted late April, however there was a conflict with the application which delayed it another month.

Mr. Dailey asks if a permit was pulled for the fence. Inspector Gruber states no permit was issued, however Mr. Kormos is aware that a permit should have been issued and is now taking the steps to correct the action.

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Mr. Dailey asks how close a fence can be to a property line. Inspector Gruber states a fence can go right up to the property line, adding that all concrete footers and posts must be maintained within. Mr. Dailey asks if the fence is located on the property line. Inspector Gruber testified that the fence is close. Mr. Dailey asks if there is enough room to install a finish side on the fence.

Chairman Snyder interjects stating that Mr. Kormos has stated that he will finish both sides. The current status of the posts, according to his testimony, is not an issue for this hearing. Chairman Snyder explains that if Mr. Kormos fails to do so, that is when it would come before the Board.

Mr. Dailey asks for a timeline on the finish side. Chairman Snyder states within a reasonable time, however there is no specified timeline. Chairman Snyder comments that if the finish side is not done, Inspector Gruber would issue written warnings, if action is not taken, the issue will be filed with the Prosecutor's Office, who will handle the timeline.

Inspector Gruber asks Mr. Kormos how close the existing fence is off of the property line. Mr. Kormos states the fence is twelve (12) inches off of the property line.

Mr. Dailey states that the six(6) foot fence impedes on his view and the trespassing signs Mr. Kormos has on all of his trees feels like he belongs in the city. Mr. Dailey feels it is ridiculous. Mr. Dailey testifies that Mr. Kormos has had issues with dirt piles in his yard and has even reported it to the Sheriff's Office.

Mr. Nelson asks Mr. Dailey if the fence in question impacts his backyard. Mr. Dailey states he can see it. Chairman Snyder asks if the fence is on a shared property line. Mr. Dailey responds "I guess not." Referring to the map included in the application it is determined that Mr. Dailey and Mr. Kormos do not share the property line where the fence is located.

Thomas J. Zimmerman residing at 14596 Broadwood Drive, Burton Township, is sworn in. Mr. Zimmerman states he is the "unsightly dirt pile full of weeds." He begins his testimony with a backstory, starting with the dirt pile. He states, Mr. Dailey was loading his lawn tractor into his truck with some ramps, Mr. Zimmerman suggested an alternative way. Mr. Zimmerman suggested using the dirt pile to load the tractor into the bed of the truck, stating as a fireman, he felt it was a safer alternative. Mr. Zimmerman states this event caused some grief, resulting in a fence going up last summer, very early in the morning, and the fence was over six (6) feet. Mr. Zimmerman states the fence did not make him happy, adding that Mr. Dailey is the best neighbor and Mr. Kormos is terrible. He further states the Sheriff's Office has been to his home, for Mr. Dailey, he was accused of putting sticks in the woods, or dirt, which is when the "NO TRESPASSING" signs were posted. Mr. Zimmerman states in January [2022] a rogue rooster was sleeping in their pine tree, after a week, no one in the neighborhood had claimed him, therefore he built the rooster a coop and run area.

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Mr. Zimmerman states zoning requirements are in place for a reason, if they are not followed, why does he get a chance to appeal them, when he didn't do it right the first time. Mr. Zimmerman states Mr. Kormos holds everyone else to this standard, but he won't hold himself to this standard. He states that when he moved in, in 2015, there was a shed sinking into the asphalt driveway, and Mr. Kormos told him where the property line pins were located. Mr. Zimmerman states he referred to zoning on where he could move the shed and added an additional five (5) feet to ensure he met the zoning requirements. He states Mr. Kormos reported it to zoning the same day, so Mr. Zimmerman moved it. He adds that Mr. Kormos would rather call zoning or the Sheriff's Office, rather than have a conversation to resolve the issue. Mr. Zimmerman states it is disheartening and it's disgusting. He testifies that he does have his house for sale by owner, and he is upset to be leaving Mr. Dailey, however where the fence resides is a different story.

Chairman Snyder states he is not discounting the comments, however he asks if the fence would not help the situation with Mr. Kormos, in providing some separation. Mr. Zimmerman states Mr. Kormos approached him two (2) years ago about splitting the cost of a fence. He testifies he was not willing to pay for half the fence because there were trees there at the time, adding that when those trees were taken down, the trees took out some power lines that caused a brown out on a neighbor's property. In Mr. Zimmerman's opinion, the relationship between Mr. Kormos is severed. He states Mr. Dailey has been an acquaintance of his [Mr. Kormos] for a long time, and that relationship has gotten bad, to the point where there is no talking, he [Mr. Kormos] would rather just pick up the phone and hassle somebody else.

Mr. Nelson, needing clarification, asks if there are two (2) fences; one in existence and an additional one to be installed. Mr. Zimmerman states there is only one (1) fence. Inspector Gruber states Mr. Kormos installed this fence without a permit last summer, about a month after installation Inspector Gruber contacted Mr. Kormos of the violation. Inspector Gruber states the conversation to start the application extended into winter, in which it was put on hold till this spring, which brings us to current time.

Mr. Nelson asks how the fence, once finished on the other side, will adversely affect Mr. Zimmerman. Mr. Zimmerman states he was not happy with the principle of it, by not obtaining a permit. Mr. Nelson states the Board is addressing the issue in order to correct it, however if the six (6) feet is approved, will it be an issue for Mr. Zimmerman. Mr Zimmerman responds "no." He states if the Board approves the variance the fence is not an issue for him. His only issue is that the fence was installed without a permit.

For clarification, Chairman Snyder asks Mr. Zimmerman if he objects to the six (6) foot height. Mr. Zimmerman states he does object.

Mrs. Percic ask for a description of the Zimmerman property as a corner lot, specifically as to the front of the property and the side of the property. Inspector Gruber states requirements for a corner lot are treated as a front lot, explaining the way zoning is written, there is frontage on Broadwood and frontage

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on Kinsman (Rt. 87). Inspector Gruber states the area where the fence is located is Mr. Zimmerman side yard. The backyard technically exists in the back corner beyond the plane of the house adjacent to Mr. Dailey's property. Inspector Gruber states if Mr. Zimmerman were to install a fence in the same area, it would be considered a side yard and the fence could be eight (8) feet high.

Mr. Nelson asks Mr. Zimmerman again, why he objects to the fence. Mr. Zimmerman states the fence was installed without a permit and six (6) feet high. The fence is a small section of four (4) posts and two (2) sections of fence and the unfinished side faces his house.

Chairman Snyder interjects stating that Mr. Zimmerman does not need a reason to object. The resolution states a fence can not exceed four (4) feet in height. Chairman Snyder states Mr. Zimmerman has no obligation to explain why he objects as zoning is very clear. Mr. Nelson agrees, however states accommodations can be considered.

Chairman Snyder agrees with Mr. Nelson, and introduces Nick Gorris, Chairman of the Zoning Commission. He explains a responsibility of the Zoning Commission is to adjust the zoning resolution where changes need to be made. The Board of Zoning Appeals (BZA) has no authority to change the zoning resolution. The BZA can consider variations to the resolution, and whether they should be allowed, which is why practical difficulty standards are discussed. Chairman Snyder states the responsibility is on the appellant to prove the practical difficulties.

Mr. Nelson feels the point of hearings is to allow modifications or adjustments that are a benefit to property and improve the relationships of the people who live here. If a modification can be made that is satisfactory to both parties, he personally believes it should be done.

Mr. Dallos asks a question to Inspector Gruber. If Mr. Zimmerman and Mr. Dailey were to install a fence on their property line, it could be eight (8) feet tall? Inspector Gruber responds "correct, as long as it is behind the front plane of the house."

Nicholas J. Gorris, residing at 13166 Longwood Avenue, Burton Township, is sworn in. He states he resides within the same subdivision as the appellant and is in fact the Zoning Commission Chairman. Mr. Gorris states his concern that within their development if the BZA allows one (1) individual to erect a six (6) foot fence in the front yard it can adversely affect the rest of the sub division to require other property owners to install a six (6) foot fence in front yards, thus changing the nature of the neighborhood. Secondly, zoning requirements are written to maintain a level of expectation as to what the township should look like in order to maintain a look of consistency within the neighborhood. Mr. Gorris states the truth, that if applying Mr. Zimmerman could erect an eight (8) foot fence in the side yard allowable by zoning, however Mr. Zimmerman did not apply. Further stating that Mr. Kormos

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installed a fence without a permit that does not meet our zoning. Mr. Gorris states he is opposed to the fence, stating it would adversely change the development that he has resided in for forty nine (49) years.

With no further testimony and nothing further from the Board, Chairman Snyder addresses Mr. Kormos for additional testimony.

Mr. Kormos states he will remove the fence. He does not want to upset his fine, gentlemen neighbors and understands where Mr. Gorris is coming from, with the continuity of the neighborhood.

Chairman Snyder considers having Mr. Kormos withdraw his application, however decides to proceed with the public hearing in the best interest of the township.

Out of curiosity, Mr. Kormos asks how many people present reside within the Broadwood/Longwood development. It is determined that seven (7) of the eleven (11) people present reside within the development.

With no further testimony and nothing further from the Board, Chairman Snyder closes the public portion of the hearing at 7:59 p.m. for private deliberation.

Chairman Snyder reopens the public hearing at 8:04 p.m. for a statement. Chairman Snyder states for the record that he has no relation to the previous owner, Snyder, of the property in question. He recloses the public hearing at 8:05 p.m. to continue private deliberation.

At 8:09 p.m. Chairman Snyder reopens the public hearing and entertains a motion. Mrs. Percic moves that the Burton Township Board of Zoning Appeals grant a variance to Douglas Kormos as described in Application #1556-22 for the property at 14576 Broadwood Drive, Burton Township this being Parcel #04-131000. Applicant is requesting an area variance from Burton Township Zoning Resolution as amended August 9, 2019, Article IV, Section 402.3, Paragraph C, Section 6, The fence shall not exceed four (4) feet in height. This variance will allow applicant to erect a six (6) foot privacy fence. Mr. Dallos seconds the motion. Chairman Snyder calls for discussion. Mr. Nelson asks why the structural post were removed from the motion although they were submitted in the original application. Chairman Snyder explains this portion has been omitted from the motion as Mr. Kormos has stated he will finish this side of the fence. Because Mr. Kormos has agreed to do this, this portion was eliminated for consideration from the Board, therefore is not required to be included in the motion. With no further discussion the motion goes to a vote.

Roll Call Vote: Tim Snyder - no, John Nelson - no, Len Fife - no, Marilyn Percic - no, Joe Dallos - no. None in favor. All opposed. Motion denied.

Chairman Snyder announces the application for the area variance has been denied. He explains that Findings of Fact will be signed today, and Mr. Kormos has thirty (30) days from today's date to appeal the

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Board's decision. Chairman Snyder applauds Mr. Kormos's willingness to acquiesce to his neighbors, he realizes this is a difficult situation and the time and expense to erect the fence. He appreciates Mr. Kormos working with them to resolve the issue.

Chairman Snyder entertains a motion to accept the Findings of Facts as read during deliberation. Mrs. Percic moves to accept as written. Chairman Snyder calls for discussion. No discussion ensues on the motion and Chairman Snyder calls for a vote.

Roll Call Vote: Tim Snyder - yes, John Nelson - yes, Len Fife - yes, Marilyn Percic - yes, Joe Dallos - yes. All in favor. None opposed. Motion passed.

Chairman Snyder concludes this portion of the public hearing at 8:15 p.m.

OTHER BUSINESS

The Board reviews the minutes from April 19, 2022, Application #1549-22 submitted by John Byler. Mr. Fife 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.

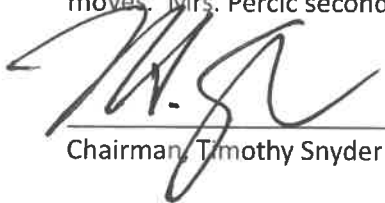
Roll Call Vote: Tim Snyder - yes, John Nelson - yes, Len Fife - yes, Marilyn Percic - yes, Joe Dallos - abstains. All in favor. None opposed. One (1) abstention. Motion passed.

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. Nelson so moves. Mrs. Percic seconds the motion. Voice vote: All in favor and the meeting concludes at 8:32 p.m.



Chairman, Timothy Snyder Date 9-27-22



Secretary, Katie O'Neill Date 9/27/22