

# BURTON TOWNSHIP BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

## MEETING MINUTES

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**Date:** May 31, 2023

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

**Place:** Burton Township Administration Building

**Purpose:** Public Hearing to consider Application #1596-23, submitted by Phil Miller, request for a(n) area variance.

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

**Absent:** Tim Snyder - excused.

**Attendees:** Phil Miller, Joanne George, Mark Dinishak, Tracy Dinishak, Rick Gruber.

### PUBLIC HEARING

Vice Chairman Skeen calls the public hearing to order at 7:02 p.m.

Roll Call shows Board Members: Alan Skeen, John Nelson, Len Fife, Marilyn Percic, 1st Alternate Frank Vecchio, 2nd Alternate Joseph Dallos to be present. Chairman Tim Snyder is absent. Vice Chairman Skeen fills in as acting Chairman and Frank Vecchio fills in for the open position. Voting Members include: Alan Skeen, John Nelson, Len Fife, Marilyn Percic & Frank Vecchio.

Vice Chairman Skeen announces the purpose of the hearing which is to consider the Application #1596-23 requesting an area variance for a twenty-four (24) foot side yard setback. The required side yard setback in an R-3 District is thirty (30) feet. He seeks relief from Article IV, Section 402.7(A)(2), Minimum Side Yard Setback, of the Burton Township Zoning Resolution as amended August 14, 2019. He asks that this be granted for the lot located at: 14770 Aspen Hills Lane in Burton Township Ohio, Parcel #04-150714.

Secretary O'Neill states for the record that this hearing was published in the Maple Leaf, and that adjacent property owners had been sent notice of the public hearing.

The applicant, Phil Miller, residing at 14770 Aspen Hills Lane in Burton Township, is sworn in. Mr. Miller states due to the lay of the land, placement of the retaining wall and existing structures this location is the space available. Mr. Miller states originally this was not planned, however going through the options, the plan changed.

Vice Chairman Skeen reviews the factors of an area variance with the appellant.

- 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 states he does not think the request is substantial.**

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- 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 "No."**
- D. Whether the variance would adversely affect the delivery of governmental service? **Mr. Miller responds "No."**
- E. Whether the lot owners purchased the lot with the knowledge of the zoning restriction. **Mr. Miller responds "Yes."**
- 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 "Yes."**

Vice Chairman Skeen opens the hearing to questions from the Board.

Mrs. Percic asks for clarification on the drawing submitted with the application, specifically the location of the new construction. Mr. Miller states that he does not have detailed drawings for the new building at this point. He explains that the new building will consist of a pavilion and small hobby shop.

Mrs. Percic asks what will happen with the existing structure that is located in that space. Mr. Miller states he will remove the two (2) small sheds that reside in that space and replace it with the new structure, which is a little larger than those structures.

Mrs. Percic asks why the new structure can not be moved into the property in order to meet the side yard setback? Mr. Miller states that by doing that he would not meet the distance that is required between structures, which is fifteen (15) feet.

Mrs. Percic asks if Mr. Miller could resize the structure or possibly move it back on the property to meet the requirement? Mr. Miller states the structure can not be moved over and back due to the slope of the land and the existing retaining wall and structures. He further states the pavilion will tie into the existing patio located behind the dwelling.

Rick Gruber, Burton Township Zoning Inspector, residing at 14369 Broadwood Drive in Burton Township, is sworn in. Vice Chairman Skeen asks Inspector Gruber to cite the regulation referenced by Mr. Miller. Inspector Gruber cites Section 401.1(A)(6), stating an accessory structure shall not be located within fifteen (15) feet of the primary structure.

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Mr. Dallos asks if two (2) variances are needed, one (1) for the side yard setback and one (1) for the thirteen (13) feet between structures? Referring to the drawing submitted with the application, Inspector Gruber states that the thirteen (13) feet six (6) inches (13' 6") represents the distance from the back corner of the structure. Inspector Gruber confirms that the front of the structure will meet the fifteen (15) foot requirement.

Mr. Nelson asks for further clarification on the drawing. Mr. Miller specifically points out each structure on the drawing, stating that the new structure will only include a pavilion and small hobby shop, and will replace the existing sheds on the property.

Mr. Dallos comments that the drawing does not show any elevations for the structure, because there are no details provided specifically to the structure in question, it's confusing. Mr. Dallos states the Board does not know what the elevation of the building will be or if there will be a garage door in front, or a man door. Mr. Miller states he did not seek out designs for this building up to this point. He wanted to see if his request was approved before doing so. Mr. Miller states the proposed structure will be one (1) story with a possible fruit cellar at the back.

Mr. Vecchio asks if Mr. Miller will remove the existing structure? Mr. Miller responds "Yes." Mr. Vecchio asks what the dimensions of the new building are? Mr. Miller states the building will be twenty-four (24) feet by forty-four (44) feet, with twenty-two (22) feet of that being pavilion and the other twenty-two (22) feet being a shop.

Inspector Gruber states for the record that all the existing structures on the property are in compliance with zoning. He confirms that the existing structure in the proposed location meets the thirty (30) foot side yard setback minimum requirement.

Mr. Nelson asks what the size of the current buildings are at the same location. Mr. Miller states both structures are fourteen (14) feet by sixteen (16) feet.

With no further questions from the Board, Vice Chairman Skeen opens the hearing up to the public attendees for questions or testimony.

Tracy Dinishak, residing at 17645 Aspen Hills Lane in Burton Township, is sworn in. Mrs. Dinishak [an adjacent property owner] asks if the thirty (30) foot requirement applies to a shed. Vice Chairman Skeen states all structures are required to meet the thirty (30) foot minimum. Mrs. Dinishak asks if all structures also have to meet the fifteen (15) foot requirement. Vice Chairman Skeen responds "Yes." Mrs. Dinishak states they have been focusing on other sheds in the neighborhood to see if they all meet this requirement. Inspector Gruber states the zoning within Aspen Hills is in compliance, due to the fact it is a newer neighborhood.

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Mr. Nelson asks Mr. Miller about the intended use of the proposed building. Mr. Miller states the shop will be used as a personal hobby shop for woodworking. The building is not intended for commercial use.

With no further testimony and nothing further from the Board, Vice Chairman Skeen closes the public portion of the hearing at 7:21 p.m. for private deliberation.

At 7:28 p.m. Vice Chairman Skeen reopens the public hearing and entertains a motion. Mr. Vecchio moves that the Burton Township Board of Zoning Appeals grant a variance to Phil Miller as described in Application #1596-23 for the property located at 14770 Aspen Hills Lane, Burton Township. This being parcel #04-150714. Applicant is requesting an area variance from the Burton Township Zoning Resolution as amended August 14, 2019, Article IV, Section 402.7, Paragraph A, Subsection 2. This variance will allow applicant to build at a Side Yard Setback of twenty-four (24) feet opposed to the required Minimum Side Yard Setback of thirty (30) feet in an R-3 District. Mr. Nelson seconds the motion. Vice Chairman Skeen calls for discussion. No discussion ensues on the motion and Vice Chairman Skeen calls for a vote.

Roll Call Vote: Alan Skeen - yes, John Nelson - yes, Marilyn Percic - no, Leonard Fife - yes, Frank Vecchio - yes. Four (4) in favor. One (1) opposed. Motion is approved.

Vice Chairman Skeen announces that the request for the area variance has been granted. Vice Chairman Skeen reminds Mr. Miller that if the dimensions change, he will be required to notify Inspector Gruber. Inspector Gruber states that he will need to see the final plans before issuing a permit. At 7:30 p.m. the public hearing concludes.

Vice Chairman Skeen entertains a motion to accept the Findings of Fact as read during deliberation. Mr. Vecchio moves to accept as written. Mrs. Percic seconds the motion. Vice Chairman Skeen calls for discussion. No discussion ensues on the motion and Vice Chairman Skeen calls for a vote.

Roll Call Vote: Alan Skeen - yes, John Nelson - yes, Marilyn Percic - yes, Leonard Fife - yes, Frank Vecchio - yes. All in favor. None opposed. Motion is approved.

### OTHER BUSINESS

The minutes from May 17, 2023, Application #1594-23 submitted by Daniel Burbridge are tabled till the next meeting.

Application #1598-23, submitted by K.R. Burnett Family Trust is disseminated to the Board. The applicant is requesting relief from Section 402.5, Minimum Lot Area in an R-5 District.

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NEXT MEETING

The next meeting will be a public hearing for Application #1598-23, submitted by K.R. Burnett Family Trust. This is set for Tuesday, June 20th at 7:00 p.m.

ADJOURNMENT

With no further business to discuss, Vice Chairman Skeen entertains a motion to adjourn. Mr. Vecchio so moves. Mr. Nelson seconds the motion. Voice vote: All in favor and the meeting concludes at 8:00 p.m.

Alan Skeen 6/20/23  
Vice Chairman, Alan Skeen Date

Katie O'Neill 6/20/23  
Secretary, Katie O'Neill Date