

BURTON TOWNSHIP

BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

Date: May 16, 2019

Time: 7:00 p.m.

Place: Burton Township Administration Building

Purpose: Public Hearing on application #1438-19 submitted by Jack & Cheryl Kelley.

Board Member(s) Present: Vice Chairman Alan Skeen, John Nelson, 1st Alternate Frank Vecchio, 2nd Alternate Joe Dallos.

Absent: Tim Snyder, Vince Strahan.

Visitors: Jack Kelley, Cheryl Kelley, Rick Gruber, Joe Perfetto, Joe Dallos, Nancy Montgomery Dallos, Jeff English, Sherry Hornak.

PUBLIC HEARING

The hearing was called to order at 7:30 p.m. by Vice Chairman Skeen. He states the reason for the public hearing, which is for an application on an appeal requesting a variance for the Parcel #04-099350 located on Butternut Road in Burton Township. Notification to adjacent property owners is established and Secretary O'Neill performs roll call. It is stated for the record that Joe Dallos will recuse himself from the hearing as he is an adjacent property owner.

Vice Chairman Skeen explains that the Board acts as both the judge and jury by hearing testimony for the application for the variance. With that said, he then administers the oath and asks for those providing testimony to state for the record their name, address and affirm they have been sworn in prior to presenting testimony.

Jack Kelley of 8680 Peppermill Run, Chagrin Falls, OH 44023, states he has been sworn in. Mr. Kelley provides a document, which is entered into record as Exhibit #1. He explains that they are seeking a fifty-one (51) foot variance from the required one hundred and twenty (120) foot setback, leaving a sixty-nine (69) foot setback from centerline. Mr. Kelley testifies that the lot is fairly square approximately three hundred (300) feet by three hundred (300) feet, fairly flat, with a slight grade. They feel that the ideal place for a home would be towards the front. He states that the proposed home would be inline with neighboring dwellings. Mr. Kelley references Exhibit #1 as to the dimensions of the proposed home and the existing setbacks of the neighboring homes, which range between sixty-nine (69) feet and eighty-five (85) feet on either side. Mr. Kelley states that a soil test provided no issues for a septic system which has been drawn to the back of the property due to the slight, natural grade. He states that if the home were setback at the regulation of one hundred and twenty (120) feet, adding the depth of the home (approximately seventy (70) feet), they would begin to encroach on the septic system. Mr. Kelley also states that Pleasant Hills Golf Course resides behind the property and they would prefer to build farther away from the fairway for safety reasons. In closing Mr. Kelley reiterates that they are asking for

BURTON TOWNSHIP

BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

the fifty-one (51) foot setback variance to create space in the back yard from the septic system & golf course and also to fit the visual look of the neighborhood.

Rick Gruber, Zoning Inspector of 14369 Broadwood Drive, Burton, OH 44021, states he has been sworn in. Mr. Gruber clarifies that the one hundred and twenty (120) foot setback is from the road right of way and approximately one hundred and fifty (150) feet from road centerline.

Cheryl Kelley of 8680 Peppermill Run, Chagrin Falls, OH 44023, states she has been sworn in. She states that they want to fit in to the neighborhood and be good neighbors and that they feel that the placement of the proposed home would do that.

Mr. Nelson asks if the proposed site of the septic system is having an effect on the placement of the proposed home. Joe Perfetto of 11610 Blue Heron Trail in Chardon OH, states he has been sworn in. Mr. ~~Profetto~~ ^{helping with the process.} states that he is the home builder for Mr. & Mrs. Kelley. He clarifies that both the soil expert and septic installer proposed the designated space in the back of the property based on the contour of the property. Mr. ~~Profetto~~ further states that it is required that your home be a minimum of ten (10) feet away from the septic system. He clarifies that keeping in line with the neighborhood and ensuring that the home does not impede on the septic system are the reasons for the variance.

Joe Dallos 12510 Butternut Road, Burton, OH 44021, has been affirmed. He states that he is the adjacent neighbor to the west. Mr. Dallos testifies that not a single house on Butternut meets the one hundred and twenty (120) foot setback. He explains that when he sat on the Village Council for Euclid City in the 80's and 90's every year they would discuss existing conditions and ^{precedents} ~~precedence~~ surrounding zoning. Mr. Dallos states that they were encouraged to visit the site in question. With that said, Mr. Dallos describes the surrounding neighborhood. He states that to the back of the lot in question is Pleasant Hills Golf Course, to the front is Sutter's Farm, which extends into Newbury, to the east is ^{Malensek's} ~~Malensick~~ residential, and he and his wife are to the west. Mr. Dallos testifies that Malensek's and the Pfouts' setbacks are a little farther than the rest of the homes on Butternut the majority are setback anywhere from sixty (60) to seventy (70) feet back. In conclusion Mr. Dallos states that he and his wife do not have any issue with this request. ^{Malensek's}

Vice Chairman Skeen confirms with Mr. Gruber that the lot under review is a non-conforming lot of record. Vice Chairman Skeen then reviews the Duncan Factors with Mr. & Mrs. Kelley.

- 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. *No, septic placement recommended in back of home requiring setback variance.*
- B. Whether the variance is substantial. *No, request is in-line with neighboring setbacks. Vice Chairman Skeen states that he interprets the variance to be substantial.*
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance. *No, proposed setback would be similar to neighboring properties.*
- D. Whether the variance would adversely affect the delivery of governmental services. *No.*
- E. Whether the lot owner purchased the lot with the knowledge of the zoning restriction. *Purchase in process contingent on obtaining setback variance.*

BURTON TOWNSHIP

BOARD OF ZONING APPEALS

14821 Rapids Road | Burton, Ohio 44021 | 440.834.1500

MEETING MINUTES

- F. Whether the lot owner's predicament feasibly can be obviated through some method other than a variance. *No.*
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. *Yes, variance would permit home to be built with setback similar to neighboring properties.*

Mr. Kelley agrees with the responses.

With no further testimony Vice Chairman Skeen closes the hearing for private deliberation at 7:57 p.m.

The hearing is reopened to the public at 8:13 p.m.

With no further comments from the Board nor the public Vice Chairman Skeen entertains a motion. Mr. Vecchio moves that the application #1438-19 submitted by Jack & Cheryl Kelley be granted relief from Article IV, Section 402.7, Paragraph A, Subsection 1, Front Yard Setback from one hundred and twenty (120) feet from the property line to a setback of sixty-nine (69) feet from the property line for the Parcel #04-099350 Butternut Road. This motion was seconded by Mr. Nelson.

No discussion.

Roll Call Vote: Alan Skeen - yes, Frank Vecchio - yes, John Nelson - yes. All in favor. None opposed. Motion carries. Variance granted.

FINDINGS OF FACTS

Vice Chairman Skeen reads the Findings of Facts to the Board for their approval.

Appellant claims entitlement to a variance due to the following:

- Non-conforming lot of record cannot be built on with current zoning resolution.

The following facts are relevant to the matter before the Board in reviewing the Standards for an area variance and practical standards for an area variance:

- Does not change the essential character of neighborhood as adjacent properties have similar setbacks.
- The area on the north side of the lot has been approved for septic and is ideal and moving the home back would encroach on that.
- No adverse effect on governmental services.

Mr. Vecchio moves to adopt the Findings of Fact and Vice Chairman Skeen seconds the motion.

Call for discussion. No discussion.

Roll Call Vote: Alan Skeen - yes, Frank Vecchio - yes, John Nelson - yes. All in favor. None opposed. Motion carries.

BURTON TOWNSHIP BOARD OF ZONING APPEALS

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MEETING MINUTES

With no further details, the public hearing concludes at 8:16 p.m.

REVIEW AND APPROVAL OF MINUTES

Minutes from the public hearings regarding the application #1427-19 submitted by Robert Walch & Lydia Bohm will be tabled for next meeting.

OTHER BUSINESS

Application #1439-19 submitted by Brian Ballash is disseminated to the Board for the next public hearing.

NEXT MEETING

The next meeting is scheduled for May 23, 2019 at 7:00 p.m. for a public hearing regarding an Area Variance Request for Brian Ballash application #1439-19.

ADJOURNMENT

Vice Chairman Skeen entertains a motion to adjourn. Mr. Vecchio so moves. Mr. Nelson seconds the motion. All agreed and the meeting concludes at 8:37 p.m.

Alan Skeen 5/23/19
Vice Chairman, Alan Skeen Date

Katie O'Neill 5/23/19
Secretary, Katie O'Neill Date