

CONCORD TOWNSHIP BOARD OF ZONING APPEALS
LAKE COUNTY, OHIO
REGULAR MEETING

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

August 9, 2017
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Ivan Valentic, Chairman
Blair Hamilton
Chris Jarrell
Brandon Dynes
Todd Golling, Alternate

Also Present:

Michael Lucas, Esq., Legal Counsel
Heather Freeman, Zoning Director/Zoning Inspector
Sydney Martis, Planner/Assistant Zoning Inspector

Melton Reporting
11668 Girdled Road
Concord, Ohio 44077
(440) 946-1350

1 7:00 p.m.

2 CHAIRMAN VALENTIC: The Board of Zoning Appeals for
3 August 9, 2017, is now in session. I would like to introduce
4 the Board. To my far left is Todd Golling and Brandon Dynes, I
5 am Ivan Valentic, to my right is Chris Jarrell and Blair
6 Hamilton, to my far right is Heather Freeman, our Zoning
7 Inspector.

8 Under the advice of counsel, we ask that anyone
9 speaking tonight must be sworn in. If you plan on speaking,
10 please stand and raise your right hand.

11 (Whereupon, the speakers were sworn en masse)

12 CHAIRMAN VALENTIC: Thank you. Please be seated.

13 This evening when presenting your case or commenting,
14 please come to the microphone and state your name and address
15 and confirm that you've been sworn in.

16 Heather, were the legal notices published in a timely
17 manner?

18 MS. FREEMAN: Yes, they were.

19 CHAIRMAN VALENTIC: Okay. Thank you, Heather.

20 Tonight we have one variance appeal. A three-vote
21 majority is required to either approve or deny that appeal. If
22 your request is denied, you have the right to file an appeal.
23 If this is the case, Heather can help you with filing an
24 appeal.

25 All right. So first is Variance Number 2017-14.
26 Mr. Christopher Berry is requesting a variance from
27 Section 15.03(A) and Table 15.03-1 of the Zoning Resolution to
28 allow for a second freestanding access -- accessory building
29 that is 192 square feet, in lieu of the maximum one permitted,
30 for the property located at 6726 Stratford Road and being

1 Permanent Parcel Number 08-A-031-B-00-007-0.

2 Mr. Berry, please come to the podium and present your
3 case.

4 MR. BERRY: I want to give you an addition to the
5 original letter that I had in the first packet that you have.

6 CHAIRMAN VALENTIC: Thank you. Do you have a copy
7 for Heather as well?

8 MR. BERRY: Yes.

9 MR. DYNES: Thank you.

10 MR. LUCAS: Thank you very much.

11 CHAIRMAN VALENTIC: Heather, we would like to enter
12 this into the appeal.

13 MS. FREEMAN: Okay. I will.

14 MR. BERRY: Am I to begin?

15 CHAIRMAN VALENTIC: Yes. Whenever you're ready,
16 please begin, for the record, your name and address and confirm
17 you've been sworn in.

18 MR. BERRY: All right. My name is Christopher Berry
19 and my address is 6726 Stratford Road and I acknowledge that
20 I've been sworn in this evening.

21 CHAIRMAN VALENTIC: Thank you, sir. Go ahead. The
22 floor is yours.

23 MR. BERRY: I wanted to, obviously, apply for the
24 variance to enable me to build a second accessory building
25 which is going to be used as an art studio. I teach art at
26 Lakeland. I'm in my, going into my 17th year of teaching
27 painting, drawing and design. And I have -- The house I have
28 is pretty small and I've been -- The living room is currently
29 the painting studio, which is not working too well. So that's
30 the reason for the extra building.

1 And the way my garage and house are, they're 5 feet
2 apart. And trying to attach them -- and there is a picture
3 included in the packet -- it's like a really goofy setup.
4 They're actually 5 feet apart. The two corners of the
5 building, kind of, oppose each other. And I've had a couple
6 people look at it as far as how to attach them. It's like a
7 puzzle. Nobody knows how to hook up those two roofs and to
8 change the gutter situation.

9 And I also use that space to get a lawn tractor
10 through there because access to the back yard is somewhat
11 limited. So -- And the other reason is to, kind of, get myself
12 out and away from the house and all the hustle-bustle up on the
13 street and all the other activities. So that's why the request
14 for the variance.

15 And the letter that I just gave you is an addition to
16 the written letter. That first one, I called them bullet
17 points, and that is that the building would add to the overall
18 property value. Trying to connect the garage and house would
19 not be beneficial and I don't think it would be very good use
20 of the property.

21 The second one is, I don't believe that the variance
22 is substantial. Total square footage of the proposed structure
23 is 192 square feet. It's like a 12 by 16 and it's well below
24 the total allowable 1,024 square feet.

25 The next point is I believe that the building will
26 add to the overall character of the neighborhood, and I don't
27 believe it will negatively affect any of the adjoining
28 properties. It's Weaver Building, Weaver Barns. It's a pretty
29 good looking building. I think I included a picture of that,
30 too.

1 CHAIRMAN VALENTIC: Yeah.

2 MR. BERRY: The next thing on there was the addition
3 of accessory building would not adversely affect governmental
4 services to the property. I figured if the Navy wants to come
5 and get me for a second tour, they would be able to get to me.

6 Number five on there, when I purchased the house 15
7 years ago, I wasn't aware of the zoning restrictions on the
8 property. The only thing I have learned over the years about
9 buying a house is -- because I worked for a pipeline
10 construction outfit out of Toledo -- if you are going to buy a
11 house, make sure there's no pipeline right-of-ways on the
12 property, or railroad right-of-ways. This happened to people
13 where they get ready to build a swimming pool in the back yard
14 and they can't do it because there is a pipeline restriction,
15 25 feet either side of the line. So I knew about that, so I
16 did check to make sure there is no pipelines in my back yard,
17 but I didn't know about the restrictions on buildings.

18 The next point on there, I believe the accessory
19 building would best resolve the problem for me of having extra
20 space for an art studio. Trying to resolve my situation with
21 an addition to the house would be far too costly to make it
22 feasible. And I have had a couple of builders out to house.
23 We're talking megabucks, like 40, 45 grand to make an addition
24 on the house. I went, "Uh, no."

25 The last thing on there, I believe the variance will
26 preserve the spirit and intent of the Zoning Resolution, in
27 contrast to a connection of my house and garage, which would be
28 less desirable and I don't think it would look very good as the
29 two buildings are not very compatible.

30 I also believe that the desired substantial justice

1 will be achieved by granting the variance. That's it. Thank
2 you.

3 CHAIRMAN VALENTIC: Mr. Berry, I don't have any
4 further questions but I will see if the Board has any further
5 questions for you. Anyone?

6 MR. DYNES: I don't.

7 CHAIRMAN VALENTIC: Todd, good?

8 MR. HAMILTON: Nothing.

9 CHAIRMAN VALENTIC: Nothing. You can please be
10 seated.

11 MR. BERRY: All right. Thank you.

12 CHAIRMAN VALENTIC: Thank you. Is there anyone else
13 here speaking for or against this appeal? If there are no
14 further questions or public comment, the public hearing for
15 Variance Number 2017-4 (sic.) is now closed to the public. I
16 will entertain a motion to approve Variance Number 2017-4
17 (sic.).

18 MR. DYNES: So moved.

19 MS. JARRELL: Second.

20 CHAIRMAN VALENTIC: Thank you. Open for discussion
21 on the Board for us. In my opinion, it is pretty cut and dry.
22 I think he is trying to do the right thing. He's in a pinch
23 with the garage and the building there.

24 MR. DYNES: I agree.

25 MS. JARRELL: Only a couple hundred square feet.

26 CHAIRMAN VALENTIC: Yeah.

27 MS. JARRELL: It's very nice.

28 CHAIRMAN VALENTIC: Very nice studio.

29 MS. JARRELL: Yes.

30 CHAIRMAN VALENTIC: Okay.

1 MS. JARRELL: Very neat handwriting.

2 MR. BERRY: Thanks. Thanks to my dad. He was an
3 engineer.

4 MS. JARRELL: That's what I was going to ask you.

5 CHAIRMAN VALENTIC: Okay. Blair, have you got
6 anything?

7 MR. HAMILTON: No comments, no.

8 CHAIRMAN VALENTIC: Okay. All right. If there is --
9 The question is on the approval of the Variance Appeal Number
10 2017-14. A yes vote is for the approval of the variance, a no
11 vote denies the variance. Heather, please call the vote.

12 MS. FREEMAN: Mr. Golling?

13 MR. GOLLING: Yes.

14 MS. FREEMAN: Ms. Jarrell?

15 MS. JARRELL: Yes.

16 MS. FREEMAN: Mr. Dynes?

17 MR. DYNES: Yes.

18 MS. FREEMAN: Mr. Hamilton?

19 MR. HAMILTON: Yes.

20 MS. FREEMAN: Mr. Valentic?

21 CHAIRMAN VALENTIC: Yes.
22 Congratulations. Your variance has been approved.

23 MR. BERRY: Thank you, all. Appreciate it.

24 CHAIRMAN VALENTIC: You can feel free to leave
25 unless you want to --

26 MS. JARRELL: Unless you want to hang out.

27 CHAIRMAN VALENTIC: It is not going to be very
28 exciting.

29 MR. BERRY: It's not going to be exciting?

30 CHAIRMAN VALENTIC: Not like some of the meetings.

1 MR. BERRY: Nobody will be throwing stuff?
2 CHAIRMAN VALENTIC: No, no. It will be cordial.
3 MS. JARRELL: That's only with the Zoning Commission.
4 CHAIRMAN VALENTIC: We're the darlings of Concord
5 Township.
6 MR. LUCAS: That's true, actually.
7 CHAIRMAN VALENTIC: Next on the agenda is the Review
8 of Record and Findings of Fact and Conclusions of Law regarding
9 the Knez Variance Application Number 2017-8. I turn this over
10 to legal counsel.
11 MR. LUCAS: Thank you very much. As I believe the
12 Board is aware, the Applicant, Knez Construction, through their
13 legal counsel, Gillian Hall, filed what's called an
14 administrative appeal from the decision of the Board of Zoning
15 Appeals to deny the requested variance regarding the riparian
16 setback and the disturbance of soil areas. And as a result of
17 which, when the appeal is filed, the body that made the
18 decision, in this case the Board of Zoning Appeals, is required
19 to prepare Findings and Conclusions, and Conclusions of Fact to
20 explain and justify why, in fact, they made the decision they
21 did.
22 And, secondly, at the same time, the Board is
23 required to present what's called "the record," which is all
24 the documentation and related documents that predated the
25 actual public hearings themselves to the Court of Common Pleas.
26 And that would include, in this case, the two separate
27 transcripts of proceedings that the public hearing occurred at,
28 and they've already been transcribed and, of course, they put
29 an editorial about how brilliantly they were transcribed by our
30 court reporter in record as well.

1 And those documents, together with the Findings of
2 Fact and Conclusions of Law, have to be submitted to the Court
3 within 40 days. Now, I took a 30-day extension because we were
4 kind of jammed up with things, so it's actually due tomorrow
5 now.

6 And by the way, as an aside, I apologize for the
7 delay in getting the Conclusions over to you because they
8 actually became far more lengthy than I thought they would. As
9 a matter of fact, I told Heather this morning that it was my
10 intention to have them over there by noon and I was only off by
11 five hours on that.

12 MS. JARRELL: Not bad.

13 MR. LUCAS: Yeah. So I apologize for that.

14 The Findings of Fact and Conclusions of Law, number
15 one, are based on my review of the transcript. I really tried
16 to include but summarize every witness that testified, of
17 which, as the Board is more aware than I since I was not at
18 those two meetings, it was extensive. So they're all
19 summarized on that, including at the end the *Duncan versus*
20 *Middlefield* factors that were discussed, actually, largely by
21 Brandon in going through the process and that, so to ultimately
22 conclude that the Applicant did not file -- or I'm sorry -- did
23 not present enough evidence to justify the practical difficulty
24 standard to grant the variance in that. So --

25 And then I also have an indexing of all the records
26 that are relevant to this that Heather will sign that was part
27 of the record, including I itemized each of the seemingly -- I
28 think it was from Exhibit I to Exhibit MM that was presented to
29 you right at the end of the hearing almost, along with the
30 earlier packets of exhibits. Every exhibit that was presented,

1 including the paragraphs that were presented by the adjacent
2 property owner, are all part of the record that's going to go
3 up on the appeal on that.

4 Then just as an overview for your information, after
5 the record is submitted, the Appellant, which in this case
6 would be Knez, has 30 days to file a brief stating why the
7 Board of Zoning Appeals' decision was not proper, and then we
8 have a corresponding period of time to file our brief in
9 support of the Board of Zoning Appeals' decision. And then,
10 lastly, there is a reply brief period for the Appellant, again,
11 Knez, to again make comment about any information that we put
12 in our brief on that.

13 So I think that that's kind of the overview of it.
14 Again, what's before you are based on the exhibits and,
15 secondly, the public hearing comments and the subsequent
16 discussion on both the April and May public hearing meetings on
17 the variance request. So --

18 MR. DYNES: I would move that we accept and adopt
19 Mr. Lucas' well summarized, well written and very well prepared
20 Findings and Conclusions of Fact.

21 MS. JARRELL: Second.

22 MR. DYNES: I didn't mean to cut you off.

23 MR. LUCAS: No, that was it. I was -

24 MR. DYNES: I thought --

25 MR. LUCAS: It was a socially awkward pause. I am
26 glad you filled it. I know the court reporter was like, "What
27 am I going to do now?"

28 CHAIRMAN VALENTIC: So the question is on the
29 approval of the Facts and Findings and Conclusions of the Law
30 regarding the Knez Variance Application Number 2017-8. A yes

1 vote supports the Facts and Findings that have been
2 presented --

3 MR. LUCAS: That's correct.

4 CHAIRMAN VALENTIC: -- to the Board this evening, a
5 no vote does not accept them. Heather, can you please call a
6 vote for the Board?

7 MS. FREEMAN: Mr. Hamilton?

8 MR. HAMILTON: Yes.

9 MS. FREEMAN: Ms. Jarrell?

10 MS. JARRELL: Yes.

11 MS. FREEMAN: Mr. Dynes?

12 MR. DYNES: Yes.

13 MS. FREEMAN: Mr. Valentich?

14 CHAIRMAN VALENTIC: Yes.

15 MS. FREEMAN: And Mr. Golling was not at that
16 meeting.

17 MR. GOLLING: Not here, Skip was.

18 MS. FREEMAN: So would he abstain?

19 MR. GOLLING: Should I abstain?

20 MR. LUCAS: Right, that's correct.

21 CHAIRMAN VALENTIC: Okay. The record and Findings
22 have been approved by the Board. Thank you for all your hard
23 working pulling this together.

24 MR. LUCAS: Oh, you are welcome, Mr. Chairman.

25 MS. JARRELL: Absolutely.

26 CHAIRMAN VALENTIC: All right. The last thing on our
27 agenda is the approval of minutes from July 12, 2017. Is there
28 a motion to approve the minutes?

29 MR. HAMILTON: So moved.

30 MR. DYNES: Second.

1 CHAIRMAN VALENTIC: Any additions or deletions to the
2 minutes from anyone? Nothing?

3 MS. JARRELL: Excellent job.

4 MR. DYNES: Jim is not here.

5 CHAIRMAN VALENTIC: The question is on approval of
6 the minutes from July 12th. A yes vote approves the minutes, a
7 no vote does not. All in favor of approving the minutes as
8 written say "yes."

9 (Four aye votes, no nay votes, one abstention.)

10 CHAIRMAN VALENTIC: The minutes have been approved
11 for July 12, 2017.

12 Our next meeting is on -- for the Board of Zoning
13 Appeals is September 13, 2017. The meeting for August 9, 2017,
14 is now closed to the public. Thank you.

15 (Whereupon, the meeting was adjourned at 7:16 p.m.)
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STATE OF OHIO)
) CERTIFICATE
COUNTY OF CUYAHOGA)

I, Melinda A. Melton, Registered Professional Reporter, a notary public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that, to the best of my ability, the foregoing proceeding was reduced by me to stenotype shorthand, subsequently transcribed into typewritten manuscript; and that the foregoing is a true and accurate transcript of said proceedings so taken as aforesaid.

I do further certify that this proceeding took place at the time and place as specified in the foregoing caption and was completed without adjournment.

I do further certify that I am not a friend, relative, or counsel for any party or otherwise interested in the outcome of these proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 24th day of August 2017.

Melinda A. Melton
Registered Professional Reporter

Notary Public within and for the
State of Ohio

My Commission Expires:
February 4, 2018