

YORK TOWNSHIP BOARD OF APPEALS

September 16, 2020

The York Township Board of Zoning Appeals held their monthly meeting in the York Town Hall/Fire complex on September 16, 2020.

Ronald Fabich called the meeting to order at 7:00 pm.

The Pledge of allegiance was said.

Board Members Present:

Christine Barnes, Ronald Fabich, Richard Hill, and Roger Mittler were present. Chris Kosman was unable to attend.

Guests:

Dorothy Crouch-Zoning Inspector; David Hull- York Township Zoning Commission Board Member; Bob Kiley; Jim Carbone; Kris Carbone; Dan Fry; Mike Knapp; Jen Knapp.

Minutes:

The Board Members reviewed the proposed minutes from the August 13, 2020 meeting. Roger Mittler made a motion to approve the proposed minutes. Ronald Fabich seconded the motion. Roll vote: Christine Barnes, aye; Ronald Fabich, aye; Richard Hill, aye; Roger Mittler, aye. Motion approved.

Public Hearings Reconvened from September 10, 2020

A. James and Kristena Carbone – Variance

B. Bob Kiley – Variance

Ronald Fabich explained he had a family emergency the Board did not have enough members present to hold the meeting. Ronald Fabich thanked all present for being able to attend tonight's meeting.

Ronald Fabich opened the Public Hearing for James and Kristena Carbone.

Mary Lenarth read the legal ad as published in the August 26, 2020 of the Medina County Gazette to consider a variance request from James K and Kristena Carbone, 6115 Fenn Road, Medina. (Parcel # 045-05B-32-005) for a variance from Section 301.07 of the York Township Zoning Resolution. The request is for a variance from the required minimum side lot clearance of fifteen (15) feet. The request is for side yard clearance of five (5) feet from side lot clearance.

Ronald Fabich swore in James Carbone.

Ronald Fabich asked James Carbone to explain his plans. James Carbone stated he would like to put up an aluminum carport to protect his RV from the weather and other elements, five (5) feet from his property line; explaining the position of the existing driveway and why he needs the variance.

Ronald Fabich asked if James Carbone will be adding concrete to his driveway. James Carbone said he will not be adding concrete to his driveway, will not be making the driveway wider, the poles for his carport will be in the ground. James Carbone explained how the water will drain off the carport and the drive way.

Board Members, Dorothy Crouch, James Carbone reviewed the proposed location of the carport, tree line, the mowed area, the concrete driveway and property line.

Richard Hill asked if this will be a temporary structure. James Carbone answered you tell me, I do not know.

James Carbone explained he is not sure how he will anchor the carport to the ground.

James Carbone stated it will depend on what zoning allows.

Dorothy Crouch explained she had a call regarding the carport asking if this would be a permanent or temporary structure, sides on it with a door, etc. Dorothy Crouch went on to explain the variance would go with the land, if the variance is permitted the carport could be removed a permanent pole barn type building could be erected.

Dorothy Crouch, the Board Members and James Carbone discussed variances and conditional permits.

Ronald Fabich expressed his concerns regarding the adjoining properties, now it is a corn field what if this turns into a residential area with several homes, the carport will be to close to the property line. Ronald Fabich explained if the variance is granted it will stay with the property.

Roger Mittler mentioned this being a variance he feels the Board Members need to go through each one of the Duncan Factors.

Richard Hill asked James Carbone if he could move the carport over to another location.

James Carbone stated that would not work.

Dorothy Crouch mentioned in Section 205.03 states the RV is allowed to be parked five (5) feet from the property line.

Roger Mittler asked how long James Carbone has had the property. James Carbone answered about two and a half years.

Roger Mittler asked James Carbone if he poured the concrete pad. James Carbone answered yes.

Roger Mittler explained the Duncan Factors to the audience.

Duncan Factor #1: Can the property yield a reasonable return without the variance. Roger Mittler stated he feels the answer is yes; Christine Barnes-answered yes; Ronald Fabich-yes; Richard Hill-yes.

Duncan Factor #2: Is the variance substantial. Ronald Fabich feels the variance is substantial.

Duncan Factor #3: Will the essential character of the neighborhood be substantially altered or; adjoining properties suffer a substantial detriment if the variance is granted. Ronald Fabich- not at the moment, but in the future; Roger Mittler – feels this would be a detriment, maybe not now but in the future, if the farm was ever to be broken up and the variance would be there and the structure would be there; who ever would consider buying the adjoining property may take that into consideration before purchasing it.

Duncan Factor #4: Will the variance adversely affect the delivery of governmental services. All members agreed the variance would not have any affect on any governmental services.

Duncan Factor #5: Did the property owner purchase the property with the knowledge of the zoning restrictions.

Ronald Fabich swore in Kristena Carbone.

Kristena Carbone stated she did not have knowledge of the zoning restrictions.

Roger Mittler asked James Carbone when he bought the property did he have the RV. James Carbone answered yes.

Duncan Factor #6: Can the problem be solved by some matter other than the granting of a variance. Roger Mittler answered the tree could be cut down. Ronald Fabich stated the problem could be solved in another matter.

Duncan Factor #7: Does the variance preserve the “spirit and intent” of the zoning requirement and Will “substantial justice” be done by granting the variance.

Roger Mittler and Richard Hill (retired Fire Chief) discussed the reason for the fifteen (15) foot zoning regulation from the property line. If there would happen to be a fire between two (2) structures with less than a total of thirty (30) feet from each structure this could pose a problem.

Roger Mittler stated once you have a variance you have the right to put a structure that could be totally enclosed, that is close to the property line and will not preserve the spirit and intent of the zoning requirement. Roger Mittler explained he is trying figure out in his mind which way do decide, if the variance would be granted the York Township Board Zoning of Appeals lose all control.

Ronald Fabich swore in Mike Knapp.

Mike Knapp does not want to be a problem to his neighbors, but expressed his concerns with a permanent structure that close to the property line. Mike Knapp stated he understands you cannot look to the future, you do not know what may happen, that is the purpose of having the zoning resolution, to protect the future.

Ronald Fabich swore in Jen Knapp.

Jen Knapp stated the family farm has been there for one-hundred (100 years) and does not feel the five (5) foot variance from the property line is in their best interest.

Ronald Fabich swore in Dan Fry.

Dan Fry expresses his concern for a variance of five (5) foot from the property line, what could be built there, might be an eye sore.

James and Kristena Carbone stated they were not clear what a carport on top of the ground would entail, did not think it would be a problem five (5) foot from the property line.

Dorothy Crouch stated she explained every thing to James Carbone when he was in the York Township Office.

Board Members, Dorothy Crouch, James and Kristena Carbone discussed carports, lean-to, etc., offering them other suggestions including going to the Prosecutor if they would like.

Ronald Fabich asked if there is any other discussion.

Dorothy Crouch explained she cannot make any decisions for James and Kristena Carbone regarding a carport, she can only provide them with the information.

Roger Mittler made a motion to deny the variance request from James K and Kristena Carbone, 6115 Fenn Road, Medina. (Parcel # 045-05B-32-005) for a variance from Section 301.07 of the York Township Zoning Resolution. The request was for a variance from the required minimum side lot clearance of fifteen (15) feet. The request was for a side yard clearance of five (5) feet from side lot clearance. Ronald Fabich seconded the motion. Roll vote: Christine Barnes-yes; Roger Mittler-yes, the reason is because the property owner could build any kind of building as long as it met code, and that cannot be controlled, going through the Duncan Factor the property owner is not losing anything; Ronald Fabich- Richard Hill-yes, the proximity of the corn field to, he knows what the combine can do and knows it can do some damage, and feels a drive could be installed with no variance needed; Ronald Fabich-yes. Motion approved.

Dorothy Crouch and David Hull gave James and Kristena Carbone ideas for a driveway.

Ronald Fabich thanked everyone for their time and patience and explained the Board Members need to move on to the next Public Hearing.

Ronald Fabich opened up the Public Hearing for Bob Kiley.

Mary Lenarth read the legal ad as published in the August 26, 2020 of the Medina County Gazette to consider a variance request from Bob Kiley, of 155 Koons Avenue, Medina. Property is located at 6126 Norwalk Rd, Medina, for a variance from Section 304.07 of the York Township Zoning Resolution. The request is for a variance from the required minimum side yard width of fifty (50) feet on each side.

Ronald Fabich swore in Bob Kiley.

Bob Kiley explained he and his wife have owned Bob's Storage for approximately 28 years. Bob Kiley went on to explain there is a high pressure gas line that runs down through the property and he as to stay within the guidelines of the high pressured gas line. Bob Kiely stated he would like to put up one more building to resemble the other three (3) buildings on the east side if the property stating there will not be any more buildings on this property.

Roger Mittler asked Bob Kiley when he built the other three (3) buildings.

Dorothy Crouch explained the other three (3) buildings were built before the Zoning Resolution changed, in 1996, 1997, 1999. Dorothy Crouch stated the Zoning Resolution changed in 2003. Dorothy Crouch gave Board Members a copy of all three (3) codes that covered the changes over the years.

Dorothy Crouch also explained Bob Kiley has gone before the York Township Zoning Commission; they approved the site plan contingent on the approval of the York Township Board of Zoning Appeals approval. Dorothy Crouch stated if the York Township Board of Zoning Appeals does not grant the variance the site plan is null and void.

The Board Members, Dorothy Crouch and Bob Kiley review the past zoning, current zoning and the plans for the current building Bob Kiley would like to build.

Ronald Fabich started the review of the Duncan Factors.

Duncan Factor #1: Can the property yield a reasonable return without the variance. Roger Mittler answered yes, based on the size of the property; Ronald Fabich, answered yes, Richard Hill, yes; Christine Barnes, yes

Duncan Factor #2: Is the variance is substantial. Roger Mittler, yes; Ronald Fabich, yes thirty (30) feet is substantial

Duncan Factor #3: Will the essential character of the neighborhood be substantially altered or; adjoining properties suffer a substantial detriment if the variance is granted. Ronald Fabich answered no looking at surrounding area; Richard Hill- no; Christine Barnes-no; Roger Mittler- no effect.

Duncan Factor #4: Will the variance adversely affect the delivery of governmental services. Roger Mittler asked if the drive big enough for a twenty-six (26) foot box truck to get in. Bob Kiley answered yes. All members agreed the variance would not have any affect on any governmental services.

Duncan Factor #5: Did the property owner purchase the property with the knowledge of the zoning restrictions. Ronald Fabich answered Bob Kiley did not know what the future would hold.

Duncan Factor #6: Can the problem be solved by some matter other than the granting of a variance. Roger Mittler answered either the building could be built smaller or moved back farther. Ronald Fabich agreed; the building could be smaller.

Duncan Factor #7: Does the variance preserve the “spirit and intent” of the zoning requirement and Will “substantial justice” be done by granting the variance. Roger Mittler –yes; Ronald Fabich- the property has been developed with previous zoning requirements, feels the spirit and intent has been preserved; Richard Hill-yes; Christine Barnes- stated the previous zoning set the spirit and intent of the zoning requirement.

Richard Hill asked about the Fire Chief’s approval. Dorothy Crouch state the Fire Chief had no problems with Bob Kiley’s variance.

Bob Kiley stated he appreciates the interest in the Fire Chief’s approval. Bob Kiley stated he was a firefighter in the city of Medina for thirty-one (31) years.

Dorothy Crouch asked David Hull- York Township Zoning Commission Board Member if he had any other questions or concerns. David Hull did not have any other questions or concerns.

Roger Mittler made a motion grant the variance request from Bob Kiley, of 155 Koons Avenue, Medina. Property is located at 6126 Norwalk Rd, Medina, for a variance from Section 304.07 of the York Township Zoning Resolution. The request is for a variance from the required minimum side yard width of fifty (50) feet on each side. For the building to be build twenty (20) feet from the east property line. Richard Hill seconded the motion. Roll vote: Christine Barnes-yes; Ronald Fabich-yes; Richard Hill-yes and Roger Mittler-yes. Motion approved.

Bob Kiley thanked the Board Members, stating he will not let the Board Members down.

Correspondence:

Dorothy Crouch stated Peggy Russell asked the Board Members for their direct deposit information.

Roger Mittler did give Peggy Russell the information. A few of the Board Members will get the information to Peggy Russell soon.

Old Business:

None

New Business:

Roger Mittler stated the Board Members really need an alternate for the Board Members.

Board Members discussed the Policy and Procedures for the York Township Board of Zoning Appeals.

The Board Members would like, if possible, a full Board for their next meeting scheduled for October 8, 2020 to go over their Policy and Procedures. They feel it is important to hear everyone's input.

Board Members, Dorothy Crouch, David Hull and Mary Lenarth discussed the need for alternates for both the Commission and the Board of Appeals.

Adjourn:

Ronald Fabich adjourned the meeting at 8:50pm

Ronald Fabich, Chairperson

Mary Lenarth, Secretary