

YORK TOWNSHIP BOARD OF APPEALS

January 14, 2021

The York Township Board of Zoning Appeals held their monthly meeting in the York Town Hall/Fire complex on January 14, 2021.

Ronald Fabich called the meeting to order at 7:05 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; Greg Curtin; Bette Curtin; Colene Conley.

Minutes:

The Board Members reviewed the proposed minutes from the October 8, 2020 meeting. Roger Mittler made a motion to approve the proposed minutes with typographical corrections made. Richard Hill seconded the motion. Roll vote: Christine Barnes, aye; Ronald Fabich, aye; Richard Hill, aye; Roger Mittler, aye. Motion approved.

Ronald Fabich asked if anyone would like to make a motion to approve the Revised York Township Board of Appeals Policy and Procedures discussed at the October 8, 2020 meeting.

Roger Mittler made a motion to accept the Revised York Township Board of Appeals Policy and Procedures discussed at the October 8, 2020 meeting (Exhibit A). Christine Barnes seconded the motion. Roll vote: Christine Barnes, aye; Ronald Fabich, aye; Richard Hill, aye; Roger Mittler, aye. Motion approved.

Public Hearing: Gregory Curtin – variance

Ronald Fabich opened the Public Hearing.

Ronald Fabich swore in Gregory Curtin.

Ronald Fabich asked Gregory Curtin if he would accept the Board; there is not a full Board present; if there is only a Board of four (4) members and there is a tie vote; two (2) and two (2); the result automatically goes to a no vote. If the applicant requests a full Board the meeting will be rescheduled within seven (7) calendar days.

Gregory Curtin said let's go for it.

Ronald Fabich proceeded with the Public Hearing.

Mary Lenarth read the legal ad as published in the December 29, 2020 edition of the Medina County Gazette to consider a variance request from Gregory A Curtin, 6451 Fenn Rd, Medina. (Parcel # 045-05B-31-007 and Parcel #045-05B-31-008) for a variance from Industrial District, Section 304.07 of the York Township Zoning Resolution. The request is for a variance from the required minimum side lot clearance of fifty (50) feet. The request is for side yard clearance of twenty-one feet, six inches (26' 6") from side lot clearance.

Christine Barnes noticed a typographical mistake in the legal add. It was typed as side yard clearance of twenty-one feet, six inches (26' 6") from side lot clearance. It should have been side yard clearance of twenty-one feet, six inches (21' 6") from side lot clearance.

Gregory Curtin explained his variance request; he would like to put an addition on to the side of his home about sixteen (16) feet x twenty-four (24) feet. Gregory Curtin would like to have more room now that they have grandchildren.

Gregory Curtin did not think it would be a problem to add onto his home until he found out his property is zoned Industrial, not Residential; his property taxes are considered Residential.

The York Township Zoning is different for Industrial vs. Residential.

Richard Hill stated the issue comes about because the Township never changed the zoning along the area of 6451 Fenn Road. Medina, when the zoning was created along time ago there was a railroad there; that zoning was created by the Township with the anticipation there would be Industrial growth with the railroad being there. Richard Hill stated it is unfortunate Gregory Curtin's home was built before there was zoning. Richard Hill explained it is not the fault of the homeowner for the zoning issue; the zoning should have been brought up-to-date after the railroad was taken out of there.

Roger Mittler stated he agrees with Richard Hill, this is a Township problem which should have been zoned Residential when all the rezoning was done.

Christine Barnes asked if Gregory Curtin's property had anything to do with the business next door. Gregory Curtin answered it does not.

Ronald Fabich explained the Duncan Factors to the audience.

Duncan Factor #1: Can the property yield a reasonable return without the variance. Roger Mittler answered yes; the property can still be used as residential with a reasonable return without the variance. Ronald Fabich agreed. Christine Barnes and Richard Hill not sure how to answer this question.

Duncan Factor #2: Is the variance substantial. Roger Mittler answered the property is currently zoned Industrial. Roger Mittler then answered, since the property has been Residential since 1905, no the variance is not substantial. Ronald Fabich agrees the variance not substantial, Gregory Curtin is only asking for an addition.

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 he does not feel this would change the character of the neighborhood.

Duncan Factor #4: Will the variance adversely affect the delivery of governmental services. Ronald Fabich read a Memorandum from Jason Creamer, Fire Chief "The Erhart –York Fire Department has no concerns or objections to the variance as requested." Ronald Fabich agrees he does not feel the variance will adversely affect the delivery of governmental services.

Duncan Factor #5: Did the property owner purchase the property with the knowledge of the zoning restrictions. Gregory Curtin had no knowledge of the zoning restrictions.

Duncan Factor #6: Can the problem be solved by some matter other than the granting of a variance. Roger Mittler asked if the addition could be placed on the back side of the house rather than the side of the house. Gregory Curtin answered his septic is at the back of his house. Roger Mittler answered no the problem cannot be solved by some matter other than granting of the variance.

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. Ronald Fabich feels this variance will preserve the spirit and intent of the zoning requirement.

Ronald Fabich asked is there any other questions or concerns regarding the variance for Gregory Curtin.

Dorothy Crouth stated she did take this variance information to the Prosecutor's office; they had no problem with the variance.

Roger Mittler made a motion to grant the variance request from Gregory A Curtin, 6451 Fenn Rd, Medina. (Parcel # 045-05B-31-007 and Parcel #045-05B-31-008) for a variance from Industrial District, Section 304.07 of the York Township Zoning Resolution. The request is for a variance from the required minimum side lot clearance of fifty (50) feet. The request is for side yard clearance of twenty-one feet, six inches (21' 6") from side lot clearance. Richard Hill seconded the motion. Roll vote: Christine Barnes, aye; Ronald Fabich, aye; Richard Hill, aye; Roger Mittler, aye. Motion approved.

Organizational Meeting:

Christine Barnes nominated Ronald Fabich for Chairperson. Roger Mittler seconded the motion. . Roll vote: Christine Barnes, aye; Ronald Fabich, abstain; Richard Hill, aye; Roger Mittler, aye. Motion approved.

Roger Mittler nominated Christine Barnes for Vice-Chairperson. Ronald Fabich seconded the motion. . Roll vote: Christine Barnes, abstain; Ronald Fabich, aye; Richard Hill, aye; Roger Mittler, aye. Motion approved.

Ronald Fabich mentioned on October 8, 2020 the Board Members revised the Policy and Procedures for York Township Board of Appeals.

Ronald Fabich asked if there was any other discussion. There was no other discussion.

Correspondence:

There was no Correspondence.

Old Business:

There was no Old Business.

New Business:

Roger Mittler made a suggestion that York Township should look at the Industrial areas for possible re-zoning.

The Board Members, Dorothy Crouch, and Colene Conley discuss zoning in York Township.

Ronald Fabich asked Dorothy Crouch if she would mention to the York Township Zoning Commission if they would look at the possibility of re-zoning some of the areas in York Township.

Adjourn:

Ronald Fabich adjourned the meeting at 8:00pm.

Ronald Fabich, Chairperson

Mary Lenarth, Secretary

2021 revised

(EXHIBIT A)

York Township Board of Appeals

Approved October 8, 2020 for the year of 2021 also

Policy and Procedures

A. Regular Meetings: Regular meetings of the Board of Appeals will be held the second Thursday of each month at 7:00 p.m. unless other wise provided. All meetings will be held at the York Township Hall/Fire Station Complex, located at 6609 Norwalk Road.

- 1) No more than two (2) hearings will be considered at a regular meeting.
- 2) Board members are to sign in for Board meeting, site visits, and classes attended.

B. Special and Emergency Meetings: Special meeting of the Board of Appeals will be held at the call of the Chairman, the Board of Appeals, two (2) members of the Board of Appeals, or the Zoning Inspector. The call for a special meeting shall specify the date, time location and purpose of the meeting. Unless otherwise stated, special meetings will be held at the same location as regular meetings. All legal requirements for these meetings will apply.

C. Alternate:

- 1) Alternate will be seated if a Board member is not present at roll call.
- 2) Board Member will not be seated in place of Alternate for a second hearing if continued and present pursuant to **a)** below..

- a) An Alternate or Board Member cannot be seated for a continued meeting the original of which they have missed.
- 3) Board Member should notify Chair/Vice Chairperson before the meeting if they will abstain from voting so alternate can be seated.

D. Secretary:

- 1) Minutes of previous meeting shall be provided with Board packet one week in advance of regular meeting
- 2) Agenda is to be provided to the Board and available to the public at every meeting.

E. Seating at the Board of Zoning Appeals meetings: There are three designated sitting areas:

- 1) The Board area at the front of the meeting room. This area is limited to BZA Board members that are hearing or voting at the meeting. Any non voting Board members of the BZA or alternates not involved in the voting will not be seated in this area.
- 2) Secretary/Zoning Inspector table. This area located at the north side of the room.
- 3) Audience seating. This area is in front of the BZA.
- 4) A table is to be placed in front of the BZA Board for applicant and applicant's council

F. Opening Meeting Comments:

- 1) The taping of the meeting is for the use of the Secretary to refer to and keep accurate minutes for the BZA. Tapes may be destroyed forty (40) days after the minutes are approved.
- 2) All persons in attendance must sign in.
- 3) People wishing to testify before the Board must be sworn in; give their name and current address. They must speak either from the table in front of the Board or from the podium. Testimony will be limited to 3 minutes per person.
- 4) Any testimony or questions will be directed to the BZA not to people in the audience. The BZA will redirect any pertinent questions.
- 5) The BZA may request that conversations or discussions not directed to the BZA be limited.
- 6) During a Public Hearing if the Board has received correspondence regarding the Public Hearing the Board will disregard the correspondence. Due to the fact that the correspondence cannot be cross examined.
- 7) The Board reserves the right to go into caucus during public meetings.

G. Board:

- 1) Board of Zoning appeals members are required to attend at least one updated training each year when available through the Prosecutors Office, Medina County Planning Services or our own BZA. Per Resolution by Township Trustees.
- 2) Clear and exact (to scale) drawings need to be presented to the Board of Zoning Appeals before the visitation and meeting so they can be reviewed.

- 3)** All Board of Zoning Appeals members should make a visitation to the property of an applicant for a variance or home occupation. The visitation is to be in groups of not more than two (2) Board Members to the property of an applicant for a variance or home occupation.
- 4)** Applicant will be asked by Chairperson/Vice Chairperson if they will accept the Board if there is not a full Board present; four (4) of five (5) members. If there is only a Board of four (4) members and there is a tie vote two (2) and two (2) the result automatically goes to a no vote. If the applicant requests a full Board the meeting will be rescheduled within seven (7) calendar days.
- 5)** The Board will inform the applicant that the hearing will be rescheduled if there are less than four (4) Board Members present. The meeting will be rescheduled with seven (7) calendar days.
- 6)** The Board of Appeals will be furnished with a calendar of the up coming year's scheduled meetings dates. If there is a special meeting or a cancelled meeting the Board will be notified by the Chairperson, Vice Chairperson, Secretary, or Zoning Inspector.
- 7)** The minutes of the Board of Zoning Appeals are not final until they have been approved by the Board with a roll call vote and can be amended before the Board's roll call vote.
- 8)** BZA board members should notify the Chairperson, Vice Chairperson or the Township Office if they are unable to attend the meeting so the Alternate can be contacted and seated in their place.