

YORK TOWNSHIP BOARD OF APPEALS

December 8, 2022

The York Township Board of Zoning Appeals held their monthly meeting in the York Town Hall/Fire complex on December 8, 2022.

Christine Barnes called the meeting to order at 6:30 pm.

The Pledge of allegiance was said.

Board Members Present:

Christine Barnes, Ronald Fabich, Richard Hill, Chris Kosman, Roger Mittler, and Alternate Jessica Gerspacher were present.

Guests:

Steve Ibos-Zoning Inspectors; David Hull-York Township Zoning Commission Board Member; Michele Bahler; Kathryn Rybarczyk; Ashley Jacin; Troy Jacin; Jonathan Botero; Ashley Botero; Dan Fry; Jim Cabone; Jason, Deloach; Wendy Deloach; Robert Armbruster; David Normant; George Jacin; Lynette Armbruster.

Minutes:

The Board Members reviewed the proposed minutes from the November 10, 2022 meeting. Chris Kosman made a motion to approve the proposed minutes. Ronald Fabich seconded the motion. Roll Vote: Christine Barnes-aye; Ronald Fabich-aye; Richard Hill-aye; Chris Kosman-aye; Roger Mittler-aye. Minutes approved.

Public Hearing: Michele Bahler and Kathryn Rybarczyk – variance

Christine Barnes asked Mary Lenarth to read the Public Ad.

Mary Lenarth read the legal ad as published in the November 23, 2022 edition of the Medina County Gazette:

The York Township Board of Zoning Appeals will hold a public hearing December 8, 2022 at 6:30 P.M. at the York Township Hall/ Fire Complex, 6609 Norwalk Rd. to consider a variance request from Michele L. Bahler and Kathryn A Rybarczyk of 6778 Greenleaf Ave., Parma, Ohio 44130, for the property located at 3795 Erhart Road, Medina, (Parcel #045-05A-30-013) for a variance from Article III, District Regulations; Section 301.12.D Rear Lot Development Requirements; of the York Township Zoning Resolution. The request is for a variance to build a new home meeting the required one hundred (100) foot set back, but with a building width of three hundred seventeen (317) feet versus the required four hundred (400) feet.

Christine Barnes swore in everyone that would like to speak at this Public Hearing.

Christine Barnes asked Michele L. Bahler and Kathryn A Rybarczyk to explain their plans. Michele L. Bahler explained they bought the property located at 3795 Erhart Road on May 9, 2021 with the intention of building a new home on the property and doing farming and planting trees. Michele L. Bahler and Kathryn A Rybarczyk explained where they would like to build the house is in front of the swale that runs through the property.

Michele L. Bahler and Kathryn A Rybarczyk explained the layout of the property and the plants that have been planted. The Board Members and Steve Ibos reviewed the plans along with the swale.

Board Members and Steve Ibos discussed back lots, zoning, and realtors

Ronald Fabich stated if Michele L. Bahler and Kathryn A Rybarczyk go back to the four hundred (400) feet by his calculations they will be eighty three (83) feet short on each side of the four hundred (400) feet. Kathryn A Rybarczyk yes, it is three hundred seventeen (317) feet. Ronald Fabich are you planning on putting the house in the center of the three hundred seventeen (317) feet. Kathryn A Rybarczyk answered, pretty close to it. Ronald Fabich mentioned Michele L. Bahler and Kathryn A Rybarczyk would be about forty (40) feet short on each side. Michele L. Bahler and Kathryn A Rybarczyk agreed.

Steve Ibos explained the side set backs are one hundred twenty-nine (129) feet and one-hundred fifteen (115) feet.

Roger Mittler and Steve Ibos reviewed the plans and the side lots.

Board Members and Steve Ibos discuss the lot layout of this back lot.

Roger Mittler explained the Duncan Factors and the reason the Board Members review the Duncan Factors.

Duncan Factor #1:

. Will the property yield a reasonable return?

. Can there be a beneficial use of the property without the variance?

Roger Mittler stated he feels this property could be used without a variance, may not be where the property owner would like it but it could be used without the variance. Roger Mittler also stated the property could also be sold. Ronald Fabich agreed with Roger Mittler and Chris Kosman also agreed with Roger Mittler.

Board Members decision – The Property can be used as laid out and the house could be built meeting the four hundred (400) feet requirement.

Duncan Factor #2:
. Is the variance substantial?

Chris Kosman understands what the property owner is trying to do and preserve the most open amount of open land in one large chunk. Chris Kosman agrees with what the property owner is trying to do. Ronald Fabich looks at it as the property owner is eighty three (83) feet short that is not a big deal. Richard Hill stated he feels building a house in front of the swale is providing the property owner with the best use of their property; if you would look at the cost of what the property owner would endure if they would build behind the swale.

Board Members decision – not substantial

Duncan Factor #3:
. Will the essential character of the neighborhood be substantially altered?
. Will adjoining properties suffer a substantial detriment if the variance is granted?

The Board Members decision – no

Duncan Factor #4:
. Will the variance adversely affect the delivery of governmental services?

The Board Members decision – no it will not affect the delivery of governmental services.

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

Christine Barnes stated the property owners stated that they did not have knowledge of the required four-hundred (400) feet back lot requirements.

Board Members decision – no they did not realize that there were zoning restrictions on a back lot.

Duncan Factor #6:
. Can the problem be solved by some matter other than the granting of a variance?

Board Members decision – Yes, building the house at the four-hundred (40) feet mark.

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?

Board Members decision – Yes it does preserve the spirit and intent

Chris Kosman made the motion to approve the variance request from Michele L. Bahler and Kathryn A Rybarczyk of 6778 Greenleaf Ave., Parma, Ohio 44130, for the property located at 3795 Erhart Road, Medina, (Parcel #045-05A-30-013) for a variance from Article III, District Regulations; Section 301.12.D Rear Lot Development Requirements; of the York Township Zoning Resolution. Richard Hill seconded the motion. .

Roll Vote: Christine Barnes-aye because of Duncan Factor #2 it is not substantial Duncan Factor #3 will not affect the character of the neighborhood. Duncan Factor # 4 will not impact governmental services. Ronald Fabich-aye he agrees with Christine Barnes. Richard Hill-aye due to the fact the Duncan Factors the majority of the Board Members agree. Chris Kosman-aye. Roger Mittler-nay because he feels the property can be used without a variance from Duncan Factor #1 and Duncan Factor #6 the problem can be solved by some other manner an granting the variance, the building can be pushed back to the four hundred (400) feet mark, Duncan Factor # 7 Roger Mittler does not feel the variance preserves the spirit and intent. Motion approved

Public Hearing: George Jacin- variance

Christine Barnes swore in everyone that would like to speak at this Public Hearing.

Mary Lenarth read the legal ad as published in the November 23, 2022 edition of the Medina County Gazette:

The York Township Board of Zoning Appeals will hold a public hearing December 8, 2022 at 6:30 P.M. at the York Township Hall/ Fire Complex, 6609 Norwalk Rd. to consider a variance request from George Jacin of 18596 Bennett Road, North Royalton, Ohio 44133; for the property located at 6155 Fenn Road, Medina, Ohio 44256 (Parcel #045-05B-32-007) for a variance from Article III, District Regulations; Section 301.02 Uses. A. Permitted Uses; and Section 301.02 Uses. B. Conditionally Permitted Uses. of the York Township Zoning Resolution. The request is for a variance to be able to rent the property out for different uses.

Christine Barnes asked George Jacin to explain his plans.

George Jacin explained he purchased the property (AKA the Castle) at 6155 Fenn Road, Medina, Ohio about ten (10) years ago, fell in love with the property, started restoring the property, has about twenty two (22) acres, then bought forty eight (48) more acres so that it would not be developed. George Jacin went on to explain he kept fixing up things on the property, has enjoyed doing things on the property. George Jacin stated he really did not have any intention on living on the property permanently, it may change; he enjoys using the property with the family.

George Jacin went on to explain a lot of people have been calling asking about renting the property. George Jacin thought rather than just looking at the property it would be good to recover some of his expenses and up-keep of the property and would like to keep the other forty eight (48) more acres. George Jacin mentioned it is a little more expensive than he thought it would be, but he is ok with that.

George Jacin stated he is looking to have people renting it out for weddings, family gatherings, or for a week or so. George Jacin stated after all the years of working on it; he enjoys people enjoying the property and the nice comments he receives. George Jacin is aware this is a residential area, stated he went down by the street to check the noise; has placed some mounds, he has planted some trees down both sides. George Jacin stated if they do have parties on the property they have them towards the back of the property rather than the front. George Jacin stated he is open to what he is allowed to do on the property and open for suggestions.

Ashley Jacin, daughter of George Jacin, has been working with George Jacin and explained that they would like other families to enjoy the property just as much as they have over the last ten (10) years.

Ashley Jacin stated they do not want to be a bother to any of the neighbors. Ashley Jacin also stated they are willing to do what ever they can to minimumize the disruption. They have talked to many of the neighbors and have their support, Ashley Jacin stated they have made it clear if there are any concerns they will do what they can to appease that and not be a bother to any people.

Ashley Jacin explained people have stopped in asking about the property (AKA the Castle). Ashley Jacin stated this is the history of York Township and would like to share this with other people.

Christine Barnes asked, so nobody lives on the building at 6155 Fenn Road. George Jacin stated no, they have been rebuilding the property for about ten (10) years.

Christine Barnes asked Ashley Jacin where she lives. Ashley Jacin stated she lives in Parma Hts. Ashley Jacin also stated if they receive approval to move forward with renting the property at 6155 Fenn Road she will be handling it because her parents do not need another project.

Roger Mittler asked Ashley Jacin, so you stated you would like to share this with other people, are you going to give it to them for free. Ashley Jacin answered, well no, as George Jacin mentioned he would like to recoup some of the cost he has put into the property and up-keep; something to help cover the costs a little bit.

Christine Barnes asked; looking at the map, the little piece that you are asking for the variance for is there electricity there. Ashley Jacin answered yes.

Christine Barnes asked are there buildings in the back. Ashley Jacin and George Jacin answered there are a few barn like structures, they are not adding any buildings at this time.

The Board Members and Steve Ibos reviewed the map of the property.

Ashley Jacin stated they have had family weddings there and have rented tents to put up in the grassy area.

George Jacin stated they do have a pavilion there that holds about fifty (50) to sixty (60) people.

Chris Kosman asked, you have mentioned you would like to recoup some of the cost you have put into the property, is the goal to make this into something like an event center later on. George Jacin stated he would like to keep it as a family thing for them selves. George Jacin stated he would not have wanted to spend ten (10) years restoring the property just to rent it out, but on the same token he would like to at least break even with the cost and up-keep of the property.

Ashley Jacin stated there is no intention of having big weddings on the property every weekend; it is more to have the flexibility whether it is once a month or twice a month if someone would like to rent it.

Christine Barnes asked if there is a fee structure if someone wanted to rent it. George Jacin you could rent the castle, cabin or the whole property. Christine Barnes asked where the parking is when you have a large event. George Jacin answered in the back on the left side of the lake. George Jacin added there is parking for one hundred (100) to one hundred fifty (150) people.

Ronald Fabich motioned; you currently live in North Royalton, is there any intention of moving to 6155 Fenn Road. George Jacin stated that it was his wish originally, it is not 100% likely although he would like to spend more time out in York Township with the beautiful country and beautiful neighbors.

Ronald Fabich stated; I think if you are thinking of renting the castle out, it would be perhaps over night like a bed and breakfast. Ronald Fabich thinks in the Zoning Resolution you must reside in the residence. George Jacin stated it would be more like an Air B & B where you would rent it for a week.

Ronald Fabich stated when he read George Jacin's variance request, he was a little concerned; you mentioned you would like to rent the property to recoup some of your investment.

George Jacin said he has no intention to sell the property, he would like to pass it down to the family, but in the mean time he still thinks about the dollars and cents; it would be nice to break even once a year. George Jacin discussed how much time and money he has in it; in the back area he has about one hundred thousand (\$100,000) dollars to one hundred fifty thousand (\$150,000) dollars he has invested in the property.

Ronald Fabich is concerned; you just put dollars after dollars into this property and now you want to recoup it, before the variance was requested. George Jacin said he would like

to share it with people and get enough to help keep up the property; it is kind of like having your own personal park.

Christine Barnes is concerned, if you have a wedding there might be one hundred (150) people there; who is going to be there to make sure they park right, take care of the noise issue; if there is an alcohol issue; there is all kinds of things that can happen at a wedding reception.

Ashley Jacin stated that a wedding would probably be the biggest event they would have on the property; her and her husband would probably be running things most of the time for weddings. Ashley Jacin stated the other option they would have would be working directly with a wedding coordinator that would be the person handling those things the night of the event. Ashley Jacin stated that would be the person that they would be in direct contact with if her and her husband would not be there.

Christine Barnes asked if Ashley Jacin would require some type of law enforcement or security. Ashley Jacin and George Jacin answered they have not gotten that far. Ashley Jacin stated that she understands that concern.

Christine Barnes asked about the letters given to the Board Members; are they to take that into consideration. Steve Ibos mentioned he has had several people come to the office inquiring about the property. Steve Ibos has encouraged them to come to tonight's Public Hearing.

Roger Mittler stated the Board of Appeals should not consider letters because the person is not here for the Board Members to question the person.

Christine Barnes asked if anyone would like to speak for or against the variance.

Christine Barnes swore in James Carbone. James Carbone is not opposed to the variance and endorsed the letter he has submitted.

Christine Barnes swore in Dan Fry; Dan Fry stated his daughter and son-in-law submitted a letter regarding the variance; they have no problems with the variance, George Jacin has been a good neighbor.

David Hull asked about a building permit issued from York Township but here is no permit at Medina County Auditor's office on file. Steve Ibos checked the Medina County Auditor's office and could not find a permit either.

George Jacin stated he did file a permit with Medina County; the building inspector did come and inspect the building.

David Hull asked George Jacin if he contacted the Medina County Storm Water Management Department. George Jacin stated he did contact the Medina County Storm Water Management Department and the State as well on his own.

David Hull explained usually if you disturb so much property Medina County Storm Water Management Department require a permit. George Jacin stated he asked Medina County Storm Water Management Department; they told him as long as he is not redirecting the water from the original intended area, he is ok.

Steve Ibos asked about bathrooms. George Jacin stated in the past they have brought in a portable bathroom.

David Hull and George Jacin discuss the buildings on the property.

Christine Barnes swore in Lynette Armbruster. Lynette Armbruster expressed her concerns about the property being rented for “various things”. Lynette Armbruster explained “various things” to her makes it sound like there will be a disturbance. George Jacin and Ashley Jacin stated they will be very selective with who they rent it out to.

Ronald Fabich stated he likes the point that Lynette Armbruster brought up. Ronald Fabich mentioned his concern is you are going to rent this house there are no parameters that can be set as to who you can rent this to or how many you can rent this to.

George Jacin stated he has a lot of money into the property; he certainly is not going to rent it to someone that is going to do more damage to it than he can recover.

Christine Barnes asked as York Township Board of Zoning Appeals who has the power to say you are allowed to have less than two hundred (200) people or can only be run from 12 noon to midnight; midnight everything needs to be shut down and cleared out. Christine Barnes continued if the York Township Board of Zoning Appeals does not have the power to set conditions, then who polices this. Ronald Fabich stated he does not feel it is the job of York Township Board of Zoning Appeals to set up the parameters and deal with the enforcement.

Richard Hill stated he a variance request is for the property; variances go for buildings or building something that cannot meet the requirements of the code. Richard Hill feels this should be a request for a conditional certificate to operate as the Zoning Resolution calls for. Richard Hill does not feel a conditional use should be granted if the owner is not living on the property. Richard Hill also stated when it is a conditional use there could be parameters and rules in place that York Township Board of Zoning Appeals want. Richard Hill also stated York Township Board of Zoning Appeals has the right to review the conditional permit and pull the permit if the owner is not compliant to the conditions on the conditional use permit.

Ronald Fabich asked Richard Hill to explain.

Richard Hill mentioned a variance goes with the land; a conditional use does not meet the Zoning Resolution.

Ronald Fabich asked if Richard Hill is referring to Section 301.02.B. Conditionally Permitted Uses. Christine Barnes answered yes.

Christine Barnes, Chris Kosman, Richard Hill, Richard Hill discuss variance vs. conditional use.

Christine Barnes asked if there was any other discussion for or against the variance for George Jacin. There was no other discussion.

Roger Mittler read the Duncan Factor Worksheet. Please consider all seven (7) factors for each variance request. When making your decision, please state at least three (3) of the factors which swayed your decision either for or against granting the variance.

Duncan Factor #1:

- . *Will the property yield a reasonable return?*
- . *Can there be a beneficial use of the property without the variance?*

Chris Kosman answered - yes, the property can be sold and could be used as a residence as well. Ronald Fabich answered – yes, feels the property could be sold.

Board Members decision: The Property can be sold for a reasonable amount and the property can be used as a residence.

Duncan Factor #2:

- . *Is the variance substantial?*

Roger Mittler stated it is substantial, it is in a R1 district and basically, they are asking for a commercial use of the property. Richard Hill agrees. Chris Kosman also agrees. Ronald Fabich answered substantial has come to mind, he knows a lot has been done to minimize disruption to neighbors, but there has to be more noise, more traffic, etc. Should be more of a commercial request.

Board Members decision: Yes, it is substantial. The property is in a R1 district and the variance is requesting a commercial use.

Duncan Factor #3:

- . *Will the essential character of the neighborhood be substantially altered?*
- . *Will adjoining properties suffer a substantial detriment if the variance is granted?*

Chris Kosman feels the character of the neighborhood has already been altered just from what has been done to the property and feels it is for the better and does not feel the surrounding neighbors will be affected. Christine Barnes stated with the neighbors that spoke tonight they are not talking about any detriment. Ronald Fabich does not agree he feels the adjoining properties will suffer a substantial detriment if the variance is granted; if this is granted, we are saying yes to an event center; this is a residential neighborhood. Roger Mittler stated the character of the neighborhood is not being altered by the

improvements that have been made on the property and looks very good; having an event center will change the character of the neighborhood.

Board Members decision: Mixed thoughts from the Board Members as to whether this variance request will be a substantial detriment.

Duncan Factor #4:

. Will the variance adversely affect the delivery of governmental services?

Roger Mittler has a concern about the property being so far off the road, if something happens can fire and rescue get back in there and can they get out.

Board Members decision: Erhart/York Township Fire Chief has said the request will not affect their services.

Duncan Factor #5:

. Did the property owner purchase the property with the knowledge of the zoning restrictions?

Board Members decision: The property was bought as a family get away and the use intent as changed over time.

Duncan Factor #6:

. Can the problem be solved by some matter other than the granting of a variance?

Chris Kosman answered yes; it can become a residence and they can enjoy it as a family or can sell the property and recoup the cost.

Board Members decision: Yes, can be used as a family residence or sold.

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?

Chris Kosman stated in his thoughts any time you put anything in as a commercial base entity it does change a residential area, regardless of the use, and it does change the spirit of the neighborhood around it. Roger Mittler stated it does not preserve the spirit and intent.

Board Members decision: The variance request does not preserve the spirit and intent of the R1 zoning.

Ronald Fabich made a motion to deny the request for a variance request from George Jacin of 18596 Bennett Road, North Royalton, Ohio 44133; for the property located at 6155 Fenn Road, Medina, Ohio 44256 (Parcel #045-05B-32-007) for a variance from Article III, District Regulations; Section 301.02 Uses. A. Permitted Uses; and Section

301.02 Uses. B. Conditionally Permitted Uses of the York Township Zoning Resolution. The request is for a variance to be able to rent the property out for different uses.

Ronald Fabich stated this decision was made according to the Duncan Factor Worksheet that they have gone over as a Board.

Roger Mittler seconded the motion.

Roll Vote: Christine Barnes-nay reason on Duncan Factor #3, #4 and #5. Ronald Fabich-aye reason the variance is substantial R1 district Duncan Factor #3 it will affect the character of the neighborhood, basically asking for an event center, and will not preserve the spirit and intent. Richard Hill-feels this should be a conditional use not a variance and was not advertised properly and voted-aye. Chris Kosman-nay due to Duncan Factors #3, #4 and #5. Roger Mittler-aye due to Duncan Factors #1, #2, #6 and #7. The vote was 3 to 2. Request for the variance is denied.

Chris Kosman suggested George Jacin look at it again, get a better plan together and work with Steve Ibos-Zoning Inspector.

Chris Kosman stated he would like to have more facts in front of them before the Board Members could make a better decision.

Board Members, George Jacin, Steve Ibos, and the public in attendance had more discussion.

Roger Mittler stated once the Board Members make the decision the applicant cannot come back and ask for a variance for the same thing.

Richard Hill mentioned if a request is turned down by the Board Members the next step if the applicant chooses; is to take it to court and ask for a reversal, the applicant has that right. Roger Mittler agreed.

Richard Hill again explained a conditional use.

David Hull stated that Steve Ibos is not allowed to give legal advice; the applicant would need to seek legal counsel.

George Jacin thanked everyone for their time.

Correspondence:

There was no Correspondence.

Zoning: Steve Ibos

Steve Ibos worked with Colene Conley working with Medina County Storm Water Management.

Steve Ibos gave a brief update of Emerald Run

Steve Ibos mentioned up coming Public Hearings for Wolff Brothers and for Habitat for Humanity

Old Business:

Board Members, Steve Ibos, and David Hull discussed why the property owners do not know what they are buying.

Board Members, Steve Ibos, and David Hull discuss back lots and various other problems with zoning.

New Business:

There was no New Business.

Adjourn:

Christine Barnes adjourned the meeting at 9:10pm

Christine Barnes, Chairperson

Mary Lenarth, Secretary