

YORK TOWNSHIP BOARD OF APPEALS

May 9, 2024

Ronald Fabich called the meeting to order at 6:30 pm.

The Pledge of allegiance was said.

The York Township Board of Zoning Appeals held their monthly meeting in the York Town Hall/Fire complex on May 9, 2024.,

Board Members Present:

Christine Barnes, Colene Conley, Ronald Fabich, Jessica Gerspacher, Richard Hill, and Rachel Nagle were present.

Guests:

Steve Ibos-Zoning Inspector/Township Administrator; Kenneth Barco-York Township Zoning Commission; George Jacin; Tracy Jacin; Chip Klinkenberg; David Hull-York Township Zoning Commission Member; Shirley Nagle, Abigail Nagle (present but did not sign in).

Minutes:

Ronald Fabich asked all Board Members to look at the April 11, 2024, minutes.

Christine Barnes made a motion to approve the minutes for April 11, 2024. Jessica Gerspacher seconded the motion. Roll call: Christine Barnes-aye; Colene Conley-aye Ronald Fabich-abstain (he was not present for April 11, 2024, meeting) Jessica Gerspacher-aye; Richard Hill-aye and Rachel Nagle-aye. Minutes approved.

Public Hearing: George Jacin – Appeal

Jessica Gerspacher made a motion to open the Public Hearing that was tabled on April 11, 2024. Richard Hill seconded the motion. Roll call: Christine Barnes-aye; Colene Conley-aye Ronald Fabich-aye; Jessica Gerspacher-aye; Richard Hill-aye and Rachel Nagle-aye. Motion approved.

Ronald Fabich asked everyone wishing to speak during the Public Hearing please stand, raise your right hand. Ronald Fabich swore in all people wanting to speak during the Public Hearing.

Ronald Fabich asked George Jacin to explain his appeal. George Jacin introduced himself and stated he lives at 6155 Fenn Road. George Jacin stated basically he is looking to be able set up small accessory buildings that each family can keep their belongings in. George Jacin explained there are twenty (20) family members, the accessory buildings would be able to keep their stuff in, primarily for storage and a bed in there for them to sleep in.

Ronald Fabich confirmed that George Jacin is looking to construct six (6), twelve (12) x twenty (20) buildings, each with an with attached eight (8) foot porch on the front. Geroge Jacin answered yes.

Colene Conley stated she heard there was a bathroom in the back where the accessory buildings will be. Colene Conley asked George Jacin if he put in a septic system. George Jacin answered no, there is a holding tank. Colene Conley asked if it was underground. George Jacin answered yes.

Ronald Fabich asked where the holding tank is in respect to where the buildings are on the drawing. George Jacin explained the holding tank on the drawing. Ronald Fabich asked if the individuals would need to walk over to that area. George Jacin answered yes.

Colene Conley asked George Jacin if he has a plan showing what the little units are going to look like? George Jacin answered no he did not go any further because he did not want to spin his wheels until it got approved. George Jacin stated that the units will be basic.

Steve Ibos explained why he denied George Jacin's request for six (6) accessory buildings. Steve Ibos stated his decision was based on the location of the parcels which is Parcel 045- 05B-32-007, located at 6155 Fenn Road, Medina, Ohio, in accordance with the York Township Zoning Map located in the low-density R-1 Residential District, Section 206 of the Resolution Regulations Applicable to Residential Districts, Section 206.01 One Principal Building Per Lot, No more than one (1) principal building shall be permitted on any one (1) residentially zoned lot. Steve Ibos then referred to Article III Section 301.01. Steve Ibos stated George Jacin is stating these are accessory buildings. Steve Ibos then referred to Section 301.02.A.1 and Section 301.02.A.2. Steve Ibos stated George Jacin wanted to build a structure that would be used to house members of his family. Steve Ibos stated he categorizes this as a dwelling which falls back on the principal use, only one principal building is allowed on any give parcel in this district to be used a principal building. Steve Ibos stated he feels the buildings are considered a dwelling.

George Jacin agreed with Steve Ibos, the only difference is the difference between a dwelling vs. an accessory structure. George Jacin stated he did not find a definition for dwelling or an accessory structure. George Jacin also explained he is not going to add onto the house, it is very cost prohibited the house would not look right adding on to the castle. George Jacin stated he would like to have his family and the kids out there just enjoying themselves for the weekend or once a month or so. George Jacin explained he doubts if it will be used more than that. George Jacin also explained most people would just put up a storage shed and call it good.

Steve Ibos stated George Jacin has been very good about everything, his decision is based on the York Township Zoning Resolution itself.

Steve Ibos referred to Section 202 and Section 205.02.A

Colene Conley asked will there be a kitchen by in one of the areas of the accessory buildings. George Jacin answered no.

Jessica Gerspacher asked where the restroom would be. George Jacin explained where it will be.

Steve Ibos and Board Members discussed the possibilities of mother-in-law suites.

George Smerigan introduced himself then explained he does not think the Zoning Inspector has the authority to issue the permit for this. George Smerigan went on to explain under the York Township Zoning Resolution the accessory use must be customarily incidental and subordinate to the principal building and located on the same lot as the principal building. George Smerigan suggested calling these buildings cabins. George Smerigan stated that six (6) cabins he does not think you can classify as customarily incidental within the York Township. George Smerigan also stated that he feels you would have a hard time finding other property in the York Township that would have accessory cabins as part of their single-family dwelling.

George Smerigan feels Steve Ibos did not have any choice but to deny the request for the six (6) accessory buildings.

Jessica Gerspacher asked if the buildings would have heat in them. George Jacin answered yes.

Ronald Fabich asked if there were any other questions for the Board Members.

Rachel Nagle asked Steve Ibos if George Jacin is not allowed to build the accessory buildings on Parcel 045- 05B-32-007 is George Jacin allowed to build an additional structure on the other parcel? George Jacin has two (2) parcels at 6155 Fenn Road, Medina, Ohio.

Steve Ibos answered that George Jacin would be able to build a house there.

George Smerigan stated this is not a variance, George Jacin is appealing the determination rather than a variance. George Smerigan mentioned the Board Members are either appealing the Zoning Inspector's decision, confirming or reversing the decision then making a determination if this is an accessory use.

Colene Conley asked George Jacin if he had applied for a venue. George Jacin answered he already did and got turned down. Colene Conley questioned all the accessory buildings being separated instead of just one building back there where the family can eat dinner in the kitchen, use the facilities, with six (6) or seven (7) buildings in a row. George Jacin answered each family wanted their own, have five (5) kids that are all married and eight (8) grandkids.

Ronald Fabich asked if there was any other discussion.

Richard Hill made a motion to support the Zoning Inspector's (Steve Ibos) ruling denying George Jacin's request to build multiple accessory buildings at 6155 Fenn Road, Medina, Ohio.

Ronald Fabich asked for a second motion.

Colene Conley seconded the motion confirming the motion to support the decision of the Zoning Inspector's (Steve Ibos) ruling.

Roll Vote: Ronald Fabich-aye; Richard Hill-aye; Christine Barnes-aye; Jessica Gerspacher-aye; Colene Conley-aye. Motion approved.

Ronald Fabich explained that is the Board Members vote. George Jacin asked what his next step is, obviously he can take it to court, and stated “which he will”.

Ronald Fabich and Steve Ibos stated George Jacin would be able to take the decision to the Medina County Appeals Court.

George Jacin asked what he is supposed to do with seventy (70) acres around here, you’re not allowed to do anything but farm. George Jacin expressed his frustration regarding the York Township Zoning Resolution.

Steve Ibos answered George Jacin could subdivide the acres, the idea of the R-1 district is to keep York Township rural. Steve Ibos explained the zoning in York Township.

George Jacin asked if he would be able to just set up four or five accessory buildings and just store his kids’ stuff. Steve Ibos stated yes you can store stuff. George Jacin said, “I guess I should have done that in the first place”. George Jacin expressed his frustration and thought he might send a new application to change his mind about what he will use it for.

George Jacin addressed everyone thanking everyone for their time.

Ronald Fabich thanked George Jacin for coming.

Public Hearing: Larry and Shirley Nagle – variance

Ronald Fabich opened the Public Hearing for Larry and Shirley Nagle.

Mary Lenarth read the Legal Ad as published in the April 24, 2024, edition of the Medina Gazette. The York Township Board of Zoning Appeals will hold a public hearing May 9, 2024, at 6:30 P.M. at the York Township Hall/ Fire Complex 6609 Norwalk Rd. to consider a variance request from Illes Architects, Inc, for Larry and Shirley Nagle, property located at 6910 Wolff Rd, Medina, Ohio (Parcel # 045-05A-10-011) for a variance from Article III, Section 301.06 of the York Township Zoning Resolution. Larry and Shirley are seeking a ten (10) foot variance from the one hundred (100) foot requirement that is stated in the York Township Resolution.

Roald Fabich asked Larry Nagle to please state his name and address. Chip Klinkenberg introduced himself.

Richard Hill stated he has a point to make, the application is not appropriate, a third party has applied for the variance to the property, a variance with the property, is forever and must be applied for by the owner of the property. Richard Hill explained it does not mean a third party cannot speak for the owner, but the applicant must be the landowner.

Chip Klinkenberg stated that he has the landowner with him, Abigail Nagle. Richard Hill stated the application is wrong. Ronald Fabich asked who owns the land. Abigail Nagle answered her mother, Shirley Nagle. Ronald Fabich stated Larry Nagle is here and Shirley Nagle is where. Chip Klinkenberg stated Larry is not here. Ronald Fabich asked who you are. Chip Klinkenberg answered he is with Illes Architects. Inc.

Steve Ibos mentioned that he did comment that the owner did have to be present at the Public Hearing because she is the owner of the property. Chip Klinkenberg mentioned he does have the owner representative here; the daughter is here.

Colene Conley asked George Smerigan to comment on this. George Smerigan stated the application needs to be signed by the property owner or there needed to be some written documentation that whoever signed the application was authorized to act on behalf of the owner. George Smerigan explained you are right, only the property owner has the right to apply for a variance, someone can act on their behalf, but it has to be documented that the person is authorized to serve as their agent. George Smerigan also stated the property owner would have to provide the zoning department with evidence that they authorized some one to act on their behalf.

Chip Klinenberg asked if he could get Shirley Nagle to come to the phone to be able to verify her daughter is here, would that work. Steve Ibos stated he thinks Shirley Nagle has to be at the Public Hearing in person.

George Smerigan answered this is a formal Public Hearing and in order for Shirley Nagle to give testimony, someone in opposition has the right to cross examine, if the owner is not here, they cannot be examined.

George Smerigan, Board Members, Steve Ibos, Chip Klinenberg and Abigale Nagle discuss the application.

Abigale Nagle is calling Shirley Nagle to come to the Public Hearing

Chip Klinkenberg explained the basic plan for the variance and showed the plans.

The meeting is basically on hold until Shirley Nagle arrives.

Shirley Nagle arrived. Ronald Fabich swore in Shirley Nagle.

Ronald Fabich asked Shirley Nagle if she would like to explain her plans for the variance. Shirley Nagle stated she is allowing Chip Klinenberg to act on her behalf.

Chip Klinenberg explained Shirley Nagle is utilizing the existing garage and explained all the details of the variance plans to the Board Members and Steve Ibos.

Jessica Gerspacher asked if this will be a commercial business. Steve Ibos explained Shirley Nagle has not applied for Commercial use.

Shirley Nagle explained this is a hobby for her and this is only for her personal use.

Ronald Fabich asked if a bathroom is going to be added. Chip Klinkenberg answered yes.

Ronald Fabich expresses his concern regarding traffic in and out of the property. Shirley Nagle explained there will not be a lot of traffic.

Ronald Fabich explained the Duncan Factors.

Board Members need to consider all seven (7) factors for each variance requested. 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?

NOTE: You do not have to give the owner the best use of their property, just a use.

Christine Barnes – Answered she feels this will be the best possible use for what the property owner is asking for.

Ronald Fabich – Answered yes. Property can be sold

Richard Hill - Answered no. The property value will still be there.

Jessica Gerspacher - Answered yes.

Duncan Factor #2:

. Is the variance substantial?

NOTE: You are not required to provide the owner with the greatest possible benefit from use of his/her property.

Colene Conley – Answered the request is reasonable.

Jessica Gerspacher – Answered the request is not substantial – not large

Richard Hill - Answered yes, it changes or infringes on the spirit of the zoning code.

Ronald Fabich - Answered yes because it is in the zoning code. But then also said no because they are only asking for ten (10) feet.

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?

Jessica Gerspacher – Answered no, the character neighborhood will not be altered, it is still a home, the adjoining neighborhood will not be altered.

Richard Hill – Answered he agrees with Jessica Gerspacher and no adjoining neighbors have attended this meeting.

Ronald Fabich – Answered no – it is a beautiful home and feels this will be an improvement.

Does not feel there will be a detriment.

Colene Conley – Answered she agrees.

Christine Barnes – Answered she agrees.

Duncan Factor #4:

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

Jessica Gerspacher asked if the Fire Chief had any comments. Steve Ibos stated he gave his approval on the variance.

Colene Conley – Answered all services can be completed.

Christine Barnes - Answered no.

Ronald Fabich - Answered no.

Duncan Factor #5:

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

NOTE: Self-imposed hardship is NOT fatal. Rather, the hardship should be balanced with the other Duncan Factors.

Christine Barnes – Answered no

Duncan Factor #6:

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

Christine Barnes – Answered she feels the owner and the architect have made it clear that this is the best way.

Colene Conley – Answered the property owner and the architect have done a good job with the drawing, this is just for a setback. This goes along with the adjacent neighborhood.

Ronald Fabich – Answered yes, it can be solved without the variance, it would not be ideal.

Richard Hill – Answered yes, feels the garage can be used appropriately.

Jessica Gerspacher – Answered no, not the way the property owner has designed it and the way she would like to use it.

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 – Answered he believes the spirit and intent of the variance has been given substantial justice by granting the variance, the plans are well laid out.

Colene Conley – Answered the other two houses are set back at ninety (90) feet this property is set back one hundred (100) feet, so it fits in.

Richard Hill asked why the home was built at one hundred (100) feet set back. Steve Ibos stated the zoning had been changed since the other homes were built.

Ronald Fabich asked if there were any other questions from the Board Members.

Ronald Fabich asked for a motion.

Jessica Gerspacher made a motion to grant Larry and Shirley Nagle, property located at 6910 Wolff Rd, Medina, Ohio (Parcel #045-05A-10-011) the variance for the ten (10) foot variance from the one hundred (100) foot requirement that is stated in the York Township Resolution.

Richard Hill second the motion. Roll Vote: Ronald Fabich-aye; Richard Hill-aye; Christine Barnes-aye; Jessica Gerspacher-aye; Colene Conley-aye. Motion approved.

Shirley Nagle and Chip Klinkenberg thanked the Board Members for their patience and consideration.

Correspondence:

Steve Ibos stated as of right now he has nothing for next month for the BZA

Old Business:

There was no Old Business.

New Business:

Ronald Fabich stated he would like to clarify applicant vs. property owner for future applications.

Board Members, Steve Ibos, David Hull and Richard Monroe discuss applicant vs. property owner.

Adjourn:

Richard Hill made a motion to adjourn the meeting at 8:30 pm. Jessica Gerspacher seconded the motion. Meeting adjourned.

Ronald Fabich – Chairperson

Mary Lenarth – Secretary