

The regular meeting of the ROOTSTOWN ZONING BOARD OF APPEALS was held on Tuesday, April 19, 2016 at 7:00 P.M. at the Rootstown Town Hall.

Those present:

Troy Cutright
Jennifer Milnes
Derek Ball
Robert Stefanik

Those absent:

Patricia Saillant
Gary Slocum

Also in attendance:

Zoning Inspector, Mark Tirpak
Assistant Zoning Inspector, Jordan Michael

Mr. Cutright called the meeting to order. Mr. Cutright introduced the Board members and explained the evening's procedures.

The first item on the agenda was an application for a variance from Section 230.05 C to expand a horse barn to include a riding arena, at property on 3636 Cook Road in an R-2 district, submitted by:

Gary & Amy Bryant
3636 Cook Road
Rootstown, OH 44272

Mr. Cutright swore in Mrs. Bryant.

Mrs. Bryant said her family has had horses on their land since they bought the property. They do not have a business. They would like to build a riding arena for their horses to get exercise in the winter weather. They currently have a 24' x 50' barn and would like the riding arena to be the minimum size suggested for private use, which is 50' x 90'.

Ms. Milnes asked what kind of outdoor lighting they plan to have. Mrs. Bryant said they currently have two outdoor lights that are like sodium fixtures on the existing barn. There won't be any additional lights put on the barn. There will be see-through-type panels to add light to the arena during the daytime.

Mr. Ball had no questions.

Mr. Stefanik had no questions.

Mr. Cutright asked about the existing barn size. Mrs. Bryant said it is 24 by 50 feet, with a lean-to on the back that will be removed.

Mr. Cutright asked the audience if there were any questions, comments, or concerns. None were heard.

Resolution ZBA 2016-003. Ms. Milnes made a motion to grant the variance as submitted for Zoning Resolution 230.05 C. Mr. Stefanik seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Stefanik - Yes Cutright - Yes. The motion carried by a vote of 4/0.

The next item on the agenda was an application for a variance from Section 230.01 A and 310.04 C to build a house at property on Case Avenue in an R-2 District, submitted by:

Sherwood Truman
522 Ravenna Avenue
Ravenna, OH 44266

Mr. Cutright swore in Mr. Truman.

Mr. Truman said he is looking to buy some land on Case Avenue which is landlocked. Access to the land stops at the gate. He wants to build a 3700 square foot house.

Mr. Stefanik asked if he is familiar with the history behind that piece of land. Mr. Truman said yes.

Mr. Cutright swore in Dan Engelhart, 2317 Edmund Avenue, Akron, OH 44312. Mr. Engelhart said the property used to have frontage on Tallmadge Road. The pavement on Case Avenue has always ended at the property line. The rest is a 50-foot right-of-way that was never dedicated. The township bought the land on the other side for the park. The deed requires access to the land, but it is blocked by the gate. He feels Mr. Truman has a use for the land that is far superior to it sitting vacant or being farmed.

Ms. Milnes asked how fire, police, and postal services would get to the land. Mr. Truman said the gate would have to be moved back. He has talked to the Township and the Township would be willing to do that. Ms. Milnes asked where the driveway would be. Mr. Truman said he will put it wherever he needs to. Ms. Milnes asked if he would be sharing a driveway with park access and the house. Mr. Truman said it would be off of Case Avenue so he would not be sharing it.

Mr. Cutright asked how many deeds are on the property and if it was split in the last 20 or 30 years. Mr. Engelhart said the land was split after the house was purchased. Mr. Cutright asked if the township has the deed for the south side of the land, which they bought. Mr. Engelhart said yes.

Mr. Cutright asked the audience if there were any questions, comments, or concerns. Cindy Deak, 4648 Tallmadge Road, Rootstown, OH 44272 was sworn in. Ms. Deak asked if she would have to pay for road frontage on Case Avenue if it becomes dedicated. The drainage and anything coming down that hill will affect her. Mr. Cutright said he thinks the applicant would do the very minimum with extending the road, and then the township would assume responsibility.

Robert Fell, 4690 Tallmadge Road, Rootstown, OH 44272 was sworn in. Mr. Fell said it is a self-created hardship to want to buy land where there is no road. He also prefers the open space with no road there and wouldn't want to change the character of the neighborhood.

Mr. Cutright swore in the following people:

Debbie Kempisty, 4714 Case Avenue, Rootstown, OH 44272
Cathy Stover, 4680 Tallmadge Road, Rootstown, OH 44272
Lowell Stover, 4680 Tallmadge Road, Rootstown, OH 44272
Christopher Miller, 4181 Siefer Drive, Rootstown, OH 44272
Connie Burrell, 4705 Case Avenue, Rootstown, OH 44272
Rick Burrell, 4705 Case Avenue, Rootstown, OH 44272

Sharon Hissom, 4400 Curtis Drive, Rootstown, OH 44272
Butch Hissom, 4400 Curtis Drive, Rootstown, OH 44272
Barb O'Donnell, 3962 Kenneth Drive, Rootstown, OH 44272
Dan O'Donnell, 3962 Kenneth Drive, Rootstown, OH 44272
Robert Bell, 3168 Robin Drive, Rootstown, OH 44272
Ryan Bisirri, 2791 State Route 44, Rootstown, OH 44272
Jason Bonecutter, 1097 New Milford Road, Atwater, OH 44201
Michelle Mays, 4708 Tallmadge Road, Rootstown, OH 44272

Mrs. Mays agreed with Mr. Fell that removing the open space would disrupt their enjoyment of the land. Moving the gate is a cost for the township.

Mr. Burrell said this house would set a precedent. This isn't the first time the issue has come up with that parcel. He is concerned about people who walk to the park, if Case is no longer a dead-end street. Mr. Cutright asked if one new house would increase the traffic by more than ten cars a day. Mr. Burrell said no. Mr. Cutright asked if anyone has brought the traffic issue to the trustees' attention. The audience said yes, numerous times.

Curtis Wise, 4578 Tallmadge Road, Rootstown, OH 44272 was sworn in. Mr. Wise said the right-of-way is there because the water lines were connected there. Someone would have to build the street for the lot to be buildable. Mr. Cutright said it would be up to the applicant to build it to county specs and get approval from the county and township.

Ms. Kempisty said the whole reason her family moved to Case Avenue was to live on a dead-end street. She appreciates the gate blocking some traffic as well as the speed bumps but is concerned about the change of the neighborhood.

Mrs. Stover said she bought the Engelharts' house, and this property sits right behind it. She would rather see a house there than a soccer field or pavilions. Mr. Stover agreed as long as the drainage is done correctly.

Mr. Burrell said he's concerned about moving the gate, not the traffic. The house wouldn't fit the neighborhood of 1400 square-foot ranches.

Mr. Cutright asked if there were any more questions from the board. Mr. Stefanik asked if the neighbors knew that lot was not buildable. Ms. Deak said yes. Mrs. Mays said she assumed so because there was no road there. Mr. Truman said it was buildable when it had frontage on Tallmadge Road.

Ms. Deak asked Mr. Truman why he picked that land. Mr. Truman said it sits up high, and he likes the view as much as others who live there.

Resolution ZBA 2016-004. Ms. Milnes made a motion to deny the variance from Zoning Resolution section 230.01 A, which says a dedicated public street and this doesn't meet that standard. Mr. Stefanik seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Stefanik - Yes Cutright - Yes. The motion carried by a vote of 4/0.

Resolution ZBA 2016-005. Ms. Milnes made a motion to deny the variance from Zoning Resolution section 310.04 C, because the road frontage needed is beyond what has been given in the past. Mr. Ball seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Stefanik - Yes Cutright - Yes. The motion carried by a vote of 4/0.

The next item on the agenda was an application for a variance from Section 310.05 A3 &

D and 310.09 B & C to build a detached accessory building at property on 4401 Curtis Drive in an R-2 district, submitted by:

Christopher & Kathleen Miller
4181 Siefer Drive
Rootstown, OH 44272

Mr. Miller said his family has outgrown their home and is looking to build a new home on the corner of Joshua Point and Curtis Drive, along with a detached garage. The current size detached garage that can be built on that lot is 600 square feet. They are asking for a 768 square foot garage. He also requested to move the garage 8 feet closer to Curtis than the house would be. The garage would be used for storage of a classic muscle car.

Mr. Cutright asked why he could not make the garage even with the house. Mr. Miller said they wanted more backyard.

Mr. Stefanik asked if other setback variances have been granted in this area. Mr. Miller said not that he knows of. Mr. Stefanik asked if they would still have enough yard without the variance. Mr. Miller said they would. Mr. Stefanik said he is not sure if the setback creates a hardship. Mr. Miller said the setback doesn't create a hardship other than the amount of concrete.

Mr. Ball had no questions.

Ms. Milnes asked if they need a variance for the distance between the two buildings. Mr. Miller said no, all they are requesting is a greater size garage with less setback from the road.

Mr. Cutright asked the audience if there were any questions, comments, or concerns. Mrs. Hissom said the codes are in place for a reason. Nobody else has a detached garage that would need a variance.

Mr. O'Donnell asked if it will be a one-story or two-story garage. Mr. Miller said one-story. Mr. O'Donnell asked if he will be working on any vehicles. Mr. Miller said no.

Mrs. O'Donnell asked if the house will be built first, because it is not an accessory building if the house is not built first. Mr. Miller said the house will be built first but they will basically be done at the same time. Mrs. O'Donnell asked if there can be a condition that it not be used as a business when it is sold. Mr. Cutright said it would not fall under a commercial use in that development to begin with. A business is not allowed and would be in violation of zoning. Mrs. O'Donnell asked if there will be two driveways. Mr. Miller said yes. Mrs. O'Donnell asked if this would open the door for someone else in their development to put up a building. Mr. Cutright said everyone can have an accessory building if they meet the square footage and setbacks. Mrs. O'Donnell asked if it is okay to request this one to meet the setback. Mr. Cutright said they may decide to do that.

Mrs. Bryant said moving the building forward would give the kids more room to play in the back yard instead of by the road. She asked if it connects to another road. Mr. Miller said Curtis connects to Rosalind Drive. Mrs. Bryant said she heard the percentage of lot size for accessory buildings is going to change. In doing so, could he then build that building regardless? Mr. Cutright said they aren't able to speculate. Mr. Tirpak said they could go smaller, too.

Mr. Ball asked if the current backyard is woods. Mr. Miller said yes. Mr. Stefanik asked if the home behind this lot is part of the development. Mr. Miller said no, it is an older home. Mr. Stefanik asked whether he would like to still apply for each variance if one is turned down. Mr. Miller said he would have to change some things but has another site plan. Ms. Milnes asked if he could build 650 square feet. Mr. Miller said he could as long as it is 24 feet deep.

Resolution ZBA 2016-006. Ms. Milnes made a motion to grant the variance from Zoning Resolution section 310.09 C, with the stipulation that it does not go over 11.2% of 600 square feet. Mr. Ball seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Stefanik - No Cutright - Yes. The motion carried by a vote of 3/1.

Resolution ZBA 2016-007. Ms. Milnes made a motion to grant the variance from Zoning Resolution section 310.05 A3, as written. Mr. Ball seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Stefanik - No Cutright - No. The motion failed for lack of a majority (2/2).

Resolution ZBA 2016-008. Mr. Cutright made a motion to deny the variance from Zoning Resolution section 310.09 B, for additional encroachment to Curtis Drive. Mr. Stefanik seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Stefanik - Yes Cutright - Yes. The motion carried by a vote of 4/0.

Resolution ZBA 2016-009. Mr. Ball made a motion to grant the variance from Zoning Resolution section 310.05 D, for the rear setback. Ms. Milnes seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Stefanik - Yes Cutright - Yes. The motion carried by a vote of 4/0.

The final item on the agenda was an application for a Conditional Use Permit for outdoor storage of construction equipment, at property on 4935 South Prospect Street in a C-2 district, submitted by:

Jason Bonecutter
1094 New Milford Road
Atwater, OH 44201

Mr. Bonecutter said he was approached by Mr. Bisirri to put a driveway in for a storage facility with a gravel parking lot and a privacy fence. They are in the process of splitting the lot.

Mr. Bisirri said he has a small excavating company. The lot would be 100 x 100 feet. Tentatively, in two or three years, he will build a commercial building there. It will basically match the Pettigrews, who have equipment storage next door.

Mr. Stefanik said the driveway is incorrect, it is not a concrete driveway going back to the gate. Mr. Bisirri said Mr. Bonecutter has a concrete driveway. Mr. Stefanik said zoning requires a solid fence and asked to have that clarified. Mr. Tirpak said it cannot be see-through. Mr. Bisirri asked about a chain-link fence with slats through it. Mr. Tirpak said that is up to the board. He asked if Mr. Bisirri is renting a unit in the plaza. Mr. Bonecutter said no, he is buying the property beside it. Mr. Stefanik asked if he is allowed to have a building there. Mr. Bisirri said yes, it is zoned C-2. Mr. Stefanik asked if the whole area will be fenced. Mr. Bisirri said right now it will be just the parking lot, but all four sides will be fenced in.

Ms. Milnes asked if the site is empty now. Mr. Bisirri said yes. Ms. Milnes asked if the driveway is going to be lit. Mr. Bisirri said nothing is going to be lit until he puts the building up. Right now he does not have electric there.

Mr. Ball had no questions.

Mr. Cutright asked Mr. Bisirri if he read the conditions outlined in the zoning book. One condition is that fuel will not be stored on site. Mr. Bisirri said he will not have fuel tanks on site. Mr. Cutright asked for no shipping containers or carports in the fenced in area.

Mr. Tirpak said parking lots have to be impervious and dust-free, but that is the board's call. Mr. Cutright said that is for the driveway and fenced-in area.

Resolution ZBA 2016-010. Mr. Cutright made a motion to grant the Conditional Use Permit as written for Zoning Resolution 350.03 C7, for outdoor storage. Conditions include no shipping containers and no carports. Ms. Milnes seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Stefanik - Yes Cutright - Yes. The motion carried by a vote of 4/0.

Resolution ZBA 2016-011. Mr. Cutright made a motion to grant the Conditional Use Permit as written for Zoning Resolution 390.06 R, for outdoor storage of fleet vehicles. Conditions include a 6-foot solid fence and an impervious parking lot. Mr. Ball seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Stefanik - Yes Cutright - Yes. The motion carried by a vote of 4/0.

The minutes for the January 19, 2016 meeting were journalized.

Mr. Stefanik made a motion to adjourn. It was seconded by Mr. Cutright.

Mr. Cutright adjourned the meeting.

Troy Cutright, Chairman
ROOTSTOWN ZONING BOARD OF APPEALS

Jordan Michael, Secretary
ROOTSTOWN ZONING BOARD OF APPEALS