Rootstown Township
Zoning Board of Appeals

The regular meeting of the ROOTSTOWN ZONING BOARD OF APPEALS was held on Tuesday, June 16, 2015 at 7:00 P.M. at the Rootstown Town Hall.

Those present:

Troy Cutright
Patricia Saillant
Derek Ball
Jennifer Milnes
Gary Slocum
Shaun White
Bob Stefanik

Those absent:

Also in attendance:

Zoning Inspector, Mark Tirpak
Assistant Zoning Inspector, Jordan Michael
ZBA Secretary, Mary Ann Greer

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

Mr. Cutright swore in the following people:

Graig Simera, 2903 Saxe Rd., Mogadore, Ohio
John Toomey, 3922 Clock Pointe Trail, Stow, Ohio
John Ostlund, 737 Alameda Ave., Cuyahoga Falls, Ohio
Andrea Zeman, 4382 Point Comfort Dr., Akron, Ohio
Wayne Zeman, 4382 Point Comfort Dr., Akron, Ohio
Barb Zoller, 4001 Harden Rd., Ravenna, Ohio
Gene Mills, 3111 Bird Dr., Ravenna, Ohio

The first item on the agenda was an application from Sections 310.05 and 450.02 to build an addition onto the current house located at 2903 Saxe Road in an R-1 District submitted by:

Graig Simera
2903 Saxe Road
Mogadore, OH 44260

Mr. Simera said they wanted to add an addition on to the current house which would contain a first floor bathroom and a firs floor laundry room. It would be flush with the front of the house. The addition would not be any closer to the road then the house is now. The house is already closer than zoning allows.

Mr. Slocum questioned if the neighbors were notified. They were. He asked if they had the history of the variance in 2002. Mr. Simera said in 2002 the house was a story and half and they built a deck on top of the kitchen for another bedroom at the back of the house. At that time they didn't need a variance just needed a permit and he didn't realize it was a one shot deal.

Ms. Milnes had no questions.

Mr. Ball had no questions.

Mrs. Saillant had no questions.

Mr. Cutright asked if there was another way to add a room on. Mr. Simera said due to the layout of the house this was the only natural way. The last time the foot print was not increased, it just went straight up. It would be built in between the house and the driveway.

Mrs. Saillant asked about the distances of the addition. Mr. Simera said he thought it was 40 feet from the road and10 feet away from the right-of-way. It was built in 1875.

Mr. Cutright asked the audience if there were any questions, comments, or concerns.

Mr. Mills said he had a question. Why is he for a variance when he has ten acres? Mr. Cutright stated that the Zoning Inspector is only aloud to give a permit for a

non-conforming use one time and for the distance from the road. Mr. Mills asked if the Association had reviewed the application and officially signed off on it. Mrs. Saillant answered that this is on Saxe Road, not Muzzy Lake.

Mr. Tirpak said he really didn't need a variance for the first one.

Resolution ZBA 2015-008. Mr. Slocum made a motion to grant the request from Sections 310.05 and 450.02 for an addition to be built on the house at 2903 Saxe Road. Ms. Milnes seconded it. A vote was taken as follows: Milnes – Yes Ball - Yes Slocum - Yes Saillant - Yes Cutright - Yes. The motion carried unanimously (5/0).

Next on the agenda was an application for a variance from Sections 310.05-D-1-b, 310.05-D-2a, 310.05-D-2-b, and 310.05-3 for an addition to existing structure located at 4007 Harden Road in an R-2 District submitted by:

Wayne & Andrea Zeman
4382 Point Comfort Dr.
Akron, OH 44319

Mr. Toomey (architect) said they wanted to add to the house. It was surveyed and they called the zoning for setbacks. He showed the Board a drawing and explained the layout. The side yard has a setback of 8 feet and the front yard has a setback of 40 feet and the back yard has a setback of 30 feet. The house is in violation of the setbacks. They went to the zoning inspector to see what options were available. He did some testing on the soil to see if the conditions were good to build on. They were. The house is on solid foundation and can support a second story but the garage is a pole building and cannot support a second floor. In the back is a little sun room (8 x 12) which is built on concrete blocks. What they will be doing is squaring off the house and making the house closer to the lake. The garage was 20 feet which is tough to fit two cars in, so what they would be doing would make it 22 feet so what they could fit two cars in it.

Mrs. Saillant asked if they had a copy of the new layout that they could look at. He showed the floor plan to the Board and explained it.

Mr. Cutright asked if it was a 4 bedroom house. Mr. Toomey said it will be and explained the use of all the rooms. Mr. Cutright asked where everyone could park. There was a boat in the yard and a trailer in the driveway already. Mr. Toomey said

there was two car parking in the driveway and they could park on the road.

Mrs. Saillant questioned the side property line. Mr. Toomey said it was 8 feet from the property line.

Ms. Milnes ask if he was just asking for 2 feet on the porch side. Mr. Toomey said they had a 40 feet and 30 feet for setback.

Mr. Tirpak said on the county map, there were no property lines so he did not know where the property lines were that they were coming up with. It is all one piece of property, they don't own it. It is owned by the Association.

Mr. Mills asked if the application meet the requirements of 1992/1993 agreement signed for the Eastwood Muzzy Lake and Sapwood Associations. Mr. Tirpak said there was no legal document and nobody has ever produced it. Mr. Mills said there was a legal agreement signed by the prosecutor's office. There should be one on file. Mr. Mills said the association is required to review and approve and sign off a proving copy signed by the officers of the organization before you and the Board can act on the variance. Mr. Tirpak said our prosecutor said there was no legal document. That was all he could go by. Mr. Cutright said that was a gray area and there were some difficulties this last winter. Mr. Mills stated there was on file the documentation that states that Muzzy Lake and Sandy Lake Associations were there prior to zoning and therefore is grandfathered under many other conditions.

A discussion followed between Mr. Mills and Mr. Tirpak about an agreement between the Associations and the Trustees. Mr. Tirpak said it should be the applicant's job to produce it. Mr. Mills said he had a copy of the agreement that was signed by the Trustees and himself. Mr. Mills said that zoning was not being enforced in the Township and should be done away with.

Mr. Slocum asked if the home owners association has signed off on it. Mrs. Zoller signed as neighbor and secretary of association. She has been there since the late '70's and is aware of all transactions. Neighbors signed off and approved it at the June 3rd meeting.

Mr. Michael received a copy of the signed agreement by email and forwarded to the Board. He said he could go downstairs and get a copy.

Mr. Cutright talked to Mr. Mills. Times have changed and the Trustees are sort of causing their own problem.

Mrs. Zoller stated that most of the houses in the association were year around homes now.

Mr. Cutright asked about the square footage of the property with the house on it. Mrs. Zoller said the Association had over 45 acres. Mr. Cutright asked how many square feet was there per non deeded lots. Mr. Toomey said it was .1364 acres. Mrs. Zoller said the structure was already there and there was not much being added on to it.

Mr. Cutright stated there was 10 feet on the side and 30 feet on the front. It is a non-conforming lot. The Board has to go by the book so the lot is half the size that one is legally allowed to build on. That is only one of the problems.

Mr. Stefanik asked where the front and back of the house was. Mr. Cutright said if you live on a corner lot, you are given the choice of which side is the front. Mr. Tirpak said on a corner lot, the address is front. Mr. Cutright said he thought the driveway would be the front of the house.

Mr. Stefanik said the front of the house is where the garage is. Mrs. Zoller said that the people who have lake front property call the front which faces the lake. Mrs. Zoller said the front towards the lake cannot be higher than 4 feet.

Mr. Mills commented that a very important part is the fact that Muzzy Lake and Sandy Lake Associations where there prior to Zoning. Zoning accepted the arrangements when it became into zoning and therefore it was grandfathered in. The example here is that that part of it does not fit your neighborhood or mine. That is why the agreement was made, that if it did not meet the zoning requirements but the Association approved it, it was just a formality to come before the Board. Mr. Cutright said that where they don't agree with that. What gives them special conditions? We are talking maybe 100 people verses several thousand in Rootstown. Mr. Mills said they grandfathered in under rare conditions.

Mr. Cutright said they just wanted to build bigger and better, other people have wanted to but have been turned down. Mr. Mills said that your neighborhood or

mine have not been grandfathered in any terms. Mr. Tirpak said they are not conforming to zoning code.

Another discussion on the agreement. Mr. Tirpak said there was no agreement found with the Trustees. Mr. Mills said that was a problem with Rootstown zoning not keeping better records. Mr. Mills said maybe the Trustees would want to pay him for a copy. Mr. Mills stated he had been with the zoning for 39 years Mr. Mills said the document was created '92/'93. Mr. Tirpak said that was why it was not grandfathered in.

Mr. Cutright said he asked everybody (all the prosecutors) and nobody has come forward with an agreement signed by the Association and the Trustees.

Ms. Zoller stated the Association has been established a long time. They have put in their roads and sewers. Their roads are private and they have maintained them.

Resolution ZBA 2015-009. Mr. Slocum made a motion to grant the variance from Sections 310.05-D-1-b, 310.05-D-2a, 310.05-D-2-b and 310.05-3 as presented on the application. Mrs. Saillant seconded it. Mrs. Saillant said since the document from the home owners Association was dated after the first, it does not exist. Mr. Slocum said he thought they could take into consideration some things, therefore he would not redraw his motion. Mr. Michael commented that he did receive everything required by the applicant but there is nothing that states he must have that signed document from the Association. A vote was taken as follows: Ball – No Slocum - Yes Milnes - No Saillant - No Cutright - No. The motion was denied by a vote of 4/1. Mr. Cutright stated the property had more than one structure on one deeded piece of property, also it is not close enough to minimum yard requirements.

Mr. Slocum asked if that means they have to wait a year to resubmit it. Mr. Cutright said yes.

The minutes for the March 16, 2015 were journalized.

Mr. Slocum made a motion to adjourn. It was seconded by Ms. Milnes.

Mr. Cutright adjourned the meeting.

Troy Cutright, Chairman

ROOTSTOWN ZONING BOARD OF APPEALS

Mary Ann Greer, Secretary BZA

ROOTSTOWN ZONING BOARD OF APPEALS