

**MINUTES**  
**Board of Building & Zoning Appeals**  
**City of Willoughby Hills, Ohio**

August 13, 2019

**CALL TO ORDER:** 8:00 pm

**ROLL CALL**

**PRESENT:** Chairman Frank Cihula, Vice Chairman John Klements, Mark Kotoch and James Michalski.

**ALSO PRESENT:** Law Director James O'Leary and Clerk Katherine Lloyd

**DISPOSITION OF MINUTES of March 12, 2019**

**MOTION:** Jim Michalski moved that the Board approve the Minutes of March 12, 2019 as submitted.

Seconded by John Klements.

Roll call: Nays Unanimous. **Motion fails 4/0.**

Chairman Cihula declared that consideration of the Minutes of the Board of Building and Zoning Appeals Meeting of March 12, 2019 has been postponed to the next meeting.

**DISPOSITION OF MINUTES of July 9, 2019**

Chairman Cihula stated that consideration the Minutes of July 9, 2019 were removed from the Agenda for tonight's meeting.

**CORRESPONDENCE**

- Notification dated 8/1/19 sent to News-Herald re: Aug. 13, 2019 BZA Meeting.
- Notification dated 8/1/19 sent to Communications re: Aug. 13, 2019 BZA Meeting.
- Email dated 8/6/19 from Councilman David Fiebig re: Case 2019-3 for 37870 Rogers Rd.
- Email dated 8/6/19 from Israel Samuels, Cleveland Metroparks re: Case 2019-4 for 36100 Chardon Rd.

Mr. Cihula stated that the letter from the Metroparks requested that best management practices are utilized in the appeal on Chardon Rd. which abuts the Metroparks. Mr. Klements asked that letters to the BZA be forwarded to the members in advance of the meeting.

The BZA Procedure for an Appeal was read by Chairman Cihula.

**CASE 2019-3**

Mr. Scott Ryan, 11857 Raintree Dr. Chardon, for property owner, Earl W. Aurelius, 37870 Rogers Rd. requests a variance to construct an accessory structure (garage) with a structure height of 16.13'. The existing accessory structure (garage) will be removed. The principal building (house) on the property is 11.46' high. Section 1133.07(b) of the Codified Ordinances limits the height of accessory structures to 18' or the height of the principal dwelling (house), whichever is less.

By order of the Board of Building and Zoning Appeals of the City of Willoughby Hills, Ohio, Notices have been mailed to property owners within 500 ft. of said property. The appeal was advertised in the News-Herald on August 3, 2019. Drawings were available for review in the lobby of City Hall. Drawings are out on the table.

**PRESENT:** Scott Ryan, 11857 Raintree Dr. Chardon, for property owner, Earl W. Aurelius, 37870 Rogers Rd.  
Mr. Aurelius could not attend tonight's meeting.

Stated reason for variance request:

The existing garage is falling apart. The proposed garage at 37870 Rogers Rd. will be taller and wider than the existing low, small house built in 1958. Many garages that have been built are taller than that house. Mr. Aurelius, the owner needs a larger garage with the height to store cars and a car lift. Mr. Aurelius resides on the next property to the east. Mr. Ryan is the builder.

Board's Discussion:

The application lists two appellants, Mr. Ryan and Mr. Aurelius. On July 19, 2019 Mr. Aurelius provided a letter authorizing Mr. Ryan to speak on behalf of the property owner and to make any changes at the BZA meeting and the Planning Commission and Architectural Board of Review meeting on August 1, 2019. Letter was read into the record.

Code limits the height of accessory structures to 18' or the height of the principal dwelling (house), whichever is less. The principle dwelling built in 1930 is 11.46' high. Height of the garage is based on the garage doors, height of the walls and pitch of the roof and upon the owner's intended use.

Garage size was not cited. Square footage of the proposed structure cannot exceed what is permitted by the acreage.

If the existing small house was removed and replaced with the size house that is built in Willoughby Hills today, there would be no need for a variance. Raising height of the house is not an option because it just got a new roof. If the garage was attached to the house, it would not be an accessory structure. No one lives in the house. Builder would need to discuss any adjustment of the request with the owner.

Public Portion for Case 2019-3 opened at 8:27 p.m.

1.) Dominic Fanelli, 37725 Rogers Rd.

He is opposed to the proposed variance at 37870 Rogers Rd. The garage too large and out of proportion to the house already on the property. The property owner lives on the next property. There are rumors about a business and equipment in the garage, increased traffic and whether the structure space will be rented, loaned or occupied. Zone R-1 Residential does not allow a commercial business.

Law Director stated "The only thing before this BZA Board is the height of the Accessory Structure as referred by the Zoning Administrator.

2.) Jenna Bing, 36951 Beech Hills

The applicant is asking to go higher than allowed in the Building Code. She stated that she has not heard any kind of hardship by having a normal sized garage behind the existing house. The owner lives next door. The new garage is on a separate lot from his residence. It should fit the character of the street which has a lot of small houses. Aesthetically, she is concerned that people would see the gable end of a very high garage behind a very small house from the street.

Board Comments: *The 10 points that a Board should consider are listed in Section 1117.09.*

- *"Hardship" applies to Use variance. Unnecessary difficulty applies to Area variance.*
- *The applicant has a right to replace the small existing garage. It should look aesthetically pleasant and architecturally correct.*
- *By Residential Code, the garage could be 18 feet high to the median point of the roof. If the garage is connected to the house, the garage could be even higher. The average garage is higher.*
- *With 8-foot garage doors, a header and supports, the garage will be higher than the 11.46 foot house.*
- *Lowering the pitch will not get it down to 11.46 feet. It will still stick up.*

3.) Councilman David Fiebig, 35701 Hanna Road

Mr. and Mrs. Fanelli live across the road from the proposed garage. Their specific concern is the height of the outbuilding. They feel that zoning laws were put in place to protect neighborhoods so they are peaceful, family-friendly and attractive to the eye and, hopefully, avoid problems in the future.

The Board asked if the building could be adjusted down a bit. However, anything lower would need a 7-foot door which is tight for an SUV or a van with a rack on top. The Board is restricted with what it is allowed to look at and the legal procedure it needs to follow.

**Public Portion for Case 2019-3 closed at 8:48 p.m.**

**Board Discussion, continued:**

Under the assumption that square footage is not the issue, he could go to 1800 SF on this property. That way he could gain more storage with larger building footprint that he could potentially be losing by lowering the height. Mr. Ryan has discussed the option of lowering the pitch to a 5 to match the house, changing the trusses and taking another foot off the wall with the owner. This is what the owner wants. Anything lower than 10 is a hardship. It is hard to build anything lower with the door, header, the track and the springs. Reducing it from 16.13' to 14.5' would work. The Board explained the appellant's choice of options.

Law Director: The Board cannot tell the applicant what amendments or changes are needed to get approved. The Board can only vote on what was discussed tonight.

The applicant asked to continue the case to the next meeting on September 10<sup>th</sup>. Continuing will allow further discussion with the owner without starting the process over if the request is withdrawn or not granted. Changes to drawings and to the request should be provided to the Building Department by August 20<sup>th</sup>.

**MOTION:** John Klements moved that Case 2019-3 for the property at 37870 Rogers Rd. be continued to the September 10, 2019 meeting at the appellant's request,  
Seconded by Mark Kotoch.  
Roll call: Ayes Unanimous. **Motion passes 4/0.**

Chairman Cihula declared that the appeal for Case 2019-3 was continued until September 10, 2019. This is the only notice that will be made that this appeal has been continued. No new notices will be sent out. Applicant needs to submit changes in the drawing and request to the Building Department by August 20, 2019.

**Additional Board Discussion:**

This Board sorely needs re-instatement of a Building Administrator. Lack of a full-time Building Administrator limits the Board's ability to function as smoothly as it has in the past. Appellants do not fully understand the process before they come to the BZA. Members cannot have any discussions prior to the meeting with the property owners or appellants, even if requested to do so. During site inspections the Board cannot talk about what is being proposed. The appellant application states that the appellant has agreed to permit members of the Board of Building and Zoning Appeals and their designees to enter the noted property for the purpose of conducting of a site inspection relative to the stated appeal.

**CASE 2019-4**

Mr. Tom Ruple, 7690 Eagle Mills, Waite Hill, for '36100 Chardon Road LLC' requests a variance to construct an accessory structure at 36100 Chardon Rd. with a height of 22.15'. The proposed building will be the ninth accessory structure on the 21.07 acre site. Section 1133.07(b) of the Codified Ordinances limits accessory buildings to 18' height. Section 1133.10(g)(4) limits accessory buildings to no more than two (2) on a single zoning lot.

Notices have been mailed to property owners within 500 ft. of said property. Drawings are available for review in the lobby of City Hall. The appeal was advertised in the News-Herald on August 3, 2019.

**PRESENT:** Tom Ruple, 7690 Eagle Mills, Waite Hill, representing 36100 Chardon Road.  
Sharon Stewart, 7690 Eagle Mills, Waite Hill.

The Zoning Administrator provided a schedule listing the accessory structures on the property and dates built. There are two homes on the property. The home on this portion of the property was built in 1930. The other one was built in 1920. The other existing buildings were built in 1955 or sooner. Ordinance 2009-15 that was adopted on April 23, 2009 limits the number of accessory buildings to two (2). Prior to that there was no limitation on the number of accessory buildings.

**Stated reason for variance request:**

Applicant proposes a storage barn with a height of 22.15 feet to the ridge that is big and wide enough with doors tall enough to keep all of their equipment inside and clean. Building depth needs to be at least 40 feet or longer. They need a Work Area inside the structure to bring equipment in for maintenance and repairs. Currently everything needed is stored outside. Some should not be left outside. Some must be transported from offsite as needed. He further states that there is a similar size barn just down the street on the other side of the road that was just put up.

**Board's Discussion:**

It is a 20-acre parcel. All of the buildings are grandfathered. Some original accessory structures were removed. Status and current usage of each of the other accessory buildings was listed. The water distribution building for the well is now heated which allows them a place to eat and get out of the weather while working. Chicken coop got a new floor and will be storage. The 'westerly' big house is unoccupied. The 2-car garage with an existing upstairs apartment was converted from a 3-stall barn and chauffeur's quarters. The rest of the existing buildings have been fixed up with siding and roofs. None of the buildings are have the ability store the needed equipment and supplies under roof. The Board is looking for how things can be consolidated. The applicant said he could attach the new structure to the chicken coop.

**Public Portion for Case 2019-4 opened at 9:15 p.m.**

Jenna Bing, 36951 Beech Hills

The property is a huge lot with woods on a large portion. It will lose the 'residential' character if another building is added that is so tall. The Building Department said it is 'agricultural'. It is on a 'residential' street in 'R-1 residential.'

*Board Comment: Agricultural' is the county's designation of property for tax purposes only. Zoning category is R-1.*

**Public Portion for Case 2019-4 closed at 9:18 p.m.**

**Board's Discussion, continued:**

With two houses and the garage apartment, there is potential for three residences on the property. Two are occupied. With two (2) accessory buildings per dwelling, that makes six (6) structures on the property.

The proposed barn could be moved back 15 feet and attached to the Chicken Coop with a 12'-15' breezeway or covered patio. Both buildings and the breezeway must have foundations on footers. The Chicken Coop's slope roof faces east-west. The combined building would be in line with the 2-car garage. Making a combined structure removes the need for a variance for an additional structure.

Lowering the building a little, would resolve the height problem. Applicant needs 14' to the top of the wall. Overhead doors need high radius lift. By lowering the 18' eave to 16' and two of the doors to 12 feet, the structure could have a 14-foot door in the center to accommodate the equipment with a 12 foot door on either side of it. The roof is based on the tallest door openings. Its pitch cannot be changed. The ceiling goes right on the trusses.

The applicant amended his request to lower the building height by two (2) feet. He will connect the structure to the 'Chicken Coop' building with a breezeway. If they are combined and built, the applicant would need to provide two (2) sets of As Built drawing for the BZA & the Building Department.

**MOTION:** Mark Kotoch moved that the Board approve Case 2019-4 and grant a variance to the property located at 36100 Chardon Road for an amended request to allow a structure height not to exceed 20.15 feet and eliminate the variance for the ninth building by attaching the structure to the 'Chicken Coop' building with a breezeway.  
Seconded by John Klements.  
Roll call: Ayes Unanimous. **Motion passes 4/0.**

**Additional Discussion:**

Mr. O'Leary stated that the request in the letter from the MetroParks for Best Maintenance practices did not oppose or address the Board's actual consideration for the variance. The applicant has a history of Best Maintenance practices. The letter will be forwarded to the Architectural Board for their upcoming review.

Chairman Cihula declared that the request is granted for Case 2019-4. The applicants have approval from the BZA to move ahead with the Zoning Permit from the Building Department. They will need to provide 'As Built' drawings to the Building Department and to the BZA.

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

None.

**CHAIRMAN'S COMMENTS**

The Board cannot do that advance negotiating with the applicant. If the City had a full-time Zoning Administrator, it could be done by that person. That way the residents could discuss options before they had to make a decision.

In response to an earlier request from the floor, Mr. Klements requested that the floor be opened to the Public.

**The Floor Opened to the Public at 9:47 p.m.**

1.) Councilwoman Laura Pizmoht, 2711 Dodd Road

The City has been paying Bowen & Associates on a contract since January 2018 for 16 hours per week for their services as Zoning Administrator. If they are not doing a sufficient job, then Council needs to know that.

*Board Comments: The Building Commissioner and the Zoning Administrator serve two very different functions which overlap and interweave. Historically, the head of the Building Department has been in charge of the Zoning. Willoughby Hills had a combined full time person for almost 45 years to protect the City, the values, quality and follow up. The Zoning Administrator always knew what the Building Administrator was doing. The BZA needs both a Building and a Zoning Administrator. The County only does Building. The City's arrangement through Bowen & Associates is for Zoning. Is it possible for City Engineer and his Assistant to spend their 16 hours in Willoughby Hills? They need time to inspect, observe and meet the applicants face to face and answer questions so applicants are better educated and prepared to come to this meeting.*

*Law Director's Comments: Bowen & Associates work their 16 hours in their office and at Willoughby Hills. They do inspections and take care of things within the City of Willoughby Hills but will also, through their office, monitor applications and things that come up. One of the two people from Bowen & Associates could be scheduled through the Building and Service Clerk to meet with applicants.*

2.) Jenna Bing, 36951 Beech Hills

The Board members are volunteers who are appointed by the Mayor. If their job is being hurt and made difficult because of City personnel that they need, she encouraged them to go to the Mayor

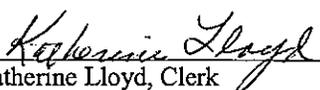
**The Floor Closed to the Public at 9:58 p.m.**

**ADJOURNMENT**

**MOTION:** Mark Kotoch moved to adjourn the meeting. Seconded by John Klements  
Voice vote: Ayes unanimous. **Motion passes 4/0.**

Chairman Cihula declared the meeting adjourned at 10:01 PM.

*Note that it is the policy of the Board to make site visits to guide them in making their decisions.  
Note that BZA meetings are recorded and recordings are considered a public record.*

  
Katherine Lloyd, Clerk

  
Chairman

12-10-2019  
Date approved: