

PUBLIC HEARING
BOARD OF ZONING APPEALS
June 29, 2016

The Austintown Township Board of Appeals held a Public Hearing on Thursday, June 29, 2016, at the Township Building, 82 Ohltown Road, Austintown, Ohio, for consideration of the following cases:

APPEAL CASE 2016-08-A-Pugh;
APPEAL CASE 2015-09-A-Musa-Continued; and
APPEAL CASE 2015-15-A-Murphy-Oesch-Continued.

The following Board members were in attendance:

Mr. Joe Koch – Chairman
Mr. Michael Beaudis – Vice-Chairman
Mr. Robert Satterlee
Mr. William Glaros
Mr. James Mahoney
Mr. Dale Basista

Chairman Koch opened the public hearing at 7:00 P.M. The following testimony was given under oath or affirmation. Court Reporter in attendance, complete transcript taken of the hearing.

APPEAL CASE 2016-08-A

Brian and Nicole Pugh, 6451 Bay Meadow Court, Austintown, Ohio, 44515, appeals from the decision of the Austintown Township Zoning Inspector and requests a variance from the terms of Article VI-Residence R-1 District, Section 604-Private Garage and Accessory Building, of the Austintown Township Zoning Ordinance, as amended through November 25, 2014, to allow for the construction of a 30' x 48' x 17'6" (1,440 sq. ft.) detached garage to be placed 18 feet behind the established front setback line of the properties located at 6451 Bay Meadow Court. The maximum permitted area for a detached garage is six hundred seventy-two (672) square feet. No detached garage or other outbuilding shall be placed nearer to a front building setback line than forty (40) feet. Said properties are further described as Lot Nos. 284 and 285, Countryside Plat No. 15; and are zoned as a Residence R-1 Districts in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Crivelli read the applicant's letter of request dated May 31, 2016 into the case record, referenced a site plan, two pages of building elevation drawings, the case mailing list, and three plat maps prepared by the zoning office. A letter of objection submitted by Michael and Mary Novak dated June 22, 2016 was read into the case record.

Mr. Koch stated the mailing list for case 2016-08-A will be incorporated into the case record.

Nicole Pugh, 6451 Bay Meadow Court, testified there is not enough room in the rear yard as there is only 30 feet behind the house. The 40 foot setback line required the garage to be pushed further back to make it as far off the road as possible and it's only 18 feet back. The neighbor who wrote the letter is three lots away and will not see it. Mr. Koch stated they will see it every time they drive by it. Mrs. Pugh stated it would be finished to match the house. It will have foundation. The driveway will be centered. She stated their lawn mower and trailers are currently stored off-site.

Mr. Koch inquired about setbacks. Zoning Inspector Crivelli advised that average setbacks are met and the lots were difficult to set house and the oval cul-de-sac is not centered. Tanner Road is dedicated. There was discussion of the vacant lot south of Tanner Road.

Mr. Satterlee inquired about possibly turning the garage parallel with the house with the driveway come thru the rear. There was discussion of Tanner Lane and the house next door. The neighbor next door wants the garage as placed to increase privacy from his back porch.

Mr. Koch asked the possibility of vacating Tanner Lane where it abuts the applicant lot. Zoning Inspector Crivelli speculated the owner of the lot to the east would object as it appears to be a buildable lot and may be able to accommodate a septic system.

Mr. Koch advised the proposed garage is nice looking but agreed with the letter writer that property values may decline. He speculated as to why the builder of the house placed the garage to the north. He suggested it should have been placed to the south. There was discussion of the poor platting process. Craig Colantone, 550 Wilcox Road, stated it was probably placed to allow for a shorter driveway.

Mr. Koch inquired about re-platting. Zoning Inspector Crivelli advised it can be re-platted into one lot or the building can straddle the property lines. He also advised if the Board chooses to approve the request they can make re-platting the two lots into one a condition of approval.

Mr. Satterlee inquired about the second lot. Mrs. Pugh advised the lot was available when they purchased their home.

Mr. Beaudis asked if she would consider moving the garage back 5 feet towards the rear property line. Mrs. Pugh answered in the affirmative although she expressed concern it would be behind the living room and kitchen and reduce the back yard area. Mr. Colantone stated there is not much back yard there now. Mr. Colantone approached the Board and there was a discussion regarding the placement of the garage, the proposed driveway, the pitch of the house roof, and the overall construction process.

BOARD OF APPEALS PUBLIC HEARING – JUNE 29, 2016

Mr. Glaros asked when they purchased the home and acquired the boat. Mrs. Pugh responded January of last year and they traded in the boat for the current one during June of last year. Mr. Koch asked the price of the house. Mrs. Pugh stated \$250,000.00 with the lot. The lot and house were negotiated at the same time.

Mr. Colantone stated this would be a better option than putting a house on the middle of an island if they decide to sell the lot. The garage would be more appealing.

No one else in attendance to speak for the request.

No one else in attendance to speak against the request.

The Board adjourned into executive session at 7:29 P.M.

The Board reconvened from executive session at 7:48 P.M.

Mr. Satterlee advised this is a difficult decision and has the potential to change the characteristics of the neighborhood. He asked if they would be willing to turn the garage parallel with the house and make it look like a house. Mr. Colantone asked if he attached the building would he need a variance. Zoning Inspector Crivelli advised he will not comment on any project until drawings have been submitted and also stated the regulations are different for attached and detached garage. There was discussion about the placement of the house and a discussion of the rear yard measurements. Zoning Inspector Crivelli advised if the request is denied he has recourse to Common Pleas Court. Mr. Colantone then requested a continuance.

2016-08-A-Continued: Motion by Mr. Satterlee to continue the case to allow time to submit a new site plan and architectural drawings.

Seconded by Mr. Mahoney.

Roll Call Vote: Mr. Glaros - Yes; Mr. Satterlee - Yes; Mr. Mahoney - Yes; Mr. Beaudis - No; and Mr. Koch - No.

The case was continued with no time limit to reappear.

APPEAL CASE 2015-09-A-Continued

Maher Musa, 7487 Salinas Trail, Boardman, Ohio, 44512, appeals from the decision of the Austintown Township Zoning Inspector and requests a conditional use permit from the terms of Article XI-Business B-2 District, Section 1102-Conditionally Permitted Uses, Paragraph #7-Used Car Lot, of the Austintown Township Zoning Ordinance, as amended through November 25, 2015, to allow for the establishment and operation of "Jordan Auto Sales II" used car lot to be located at 4213 Mahoning Avenue. Said properties are further described as Lot Nos. 67 & 68, Wickliffe Plat, located on the south side of the Mahoning Avenue right-of-way, approximately 60 feet west of the South

Edgehill Avenue-Mahoning Avenue intersection; and are zoned as Business B-2 Districts in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Crivelli advised the case is a continuation of Appeal Case 2015-09-A wherein the applicant was given an opportunity to re-appear with a scaled drawing to allow for an increase of his car inventory.

There was discussion of what a scaled drawing is. Mr. Koch advised the drawing was not scaled.

Maher Musa, 7487 Salinas Trail, Boardman, Ohio, 44512, stated he measured the lot with a tape. Mr. Satterlee expressed dissatisfaction with the drawing. The spaces were determined to be 9' x 18'. Mr. Beaudis was in agreement with the size of the stalls from his site visit. Mr. Koch stated he counted the cars and counted 20 spaces on his site visit. Mr. Musa stated he is leasing the property.

Mr. Beaudis inquired about the cars parked on the east side of the building. Mr. Musa stated the abutting property owner has no objections to cars being slightly over the shared property line.

Mr. Satterlee reviewed the original conditional use requirements. Zoning Inspector Crivelli advised that since the January hearing the applicant has reduced his car inventory and made the improvements the board required. Zoning Inspector Crivelli advised he has had a couple of productive conversations with the applicant since the January hearing. Mr. Satterlee advised the applicant that conditional uses are reviewable.

No one else in attendance to speak for the request.

No one in attendance to speak against the request.

2015-09-A-Musa-Continued: Motion by Mr. Satterlee to approve the submitted site plan and to allow five (5) extra cars – to approve the plan submitted to the Board.

Seconded by Mr. Glaros.

Roll Call Vote: Mr. Glaros - Yes; Mr. Satterlee - Yes; Mr. Mahoney - Yes; Mr. Beaudis - Yes; and Mr. Koch - Yes.

Zoning Inspector Crivelli advised the vehicle inventory can be increased to 25 vehicles and the parking stalls must be striped.

APPEAL CASE 2015-21-A-Continued

Patricia Murphy-Oesch, 6390 Fairview Road, Austintown, Ohio, 44515, appeals from the decision of the Austintown Township Zoning Inspector and requests a variance from the terms of Article I-Definitions: Dwelling-Single-Family, Two-Family, and Multi-Family,

BOARD OF APPEALS PUBLIC HEARING – JUNE 29, 2016

Article III-Non-Conformities, Section 301-Continuance of Non-Conforming Uses, Paragraph 5, Article VI-Residence R-1 District, Section 601-Permitted Uses, Paragraph 2, and Article XVII-Supplementary District Regulations, Section 1705-Conversion of Dwellings to More Units, of the Austintown Township Zoning Ordinance, as amended through November 25, 2014, to allow for an existing three-plex multi-unit dwelling to remain at the property located at 4688 New Road with no approved conversion plan or recognition of a non-conformity on file with the zoning office. Only one (1) single family dwelling with an attached private garage and/or one (1) detached private garage, and accessory buildings, exclusive of trailers or house trailers are permitted on a single platted lot. Said property is zoned as Residence R-1 District in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Crivelli read the applicant's updated letter dated January 28, 2016 into the case record, and referenced the quote for dry walling. Zoning Inspector Crivelli also advised the Board he was unable to schedule the hearing in May due to the zoning work load.

Mr. Koch stated the mailing list for case 2015-21-A-Continued will be incorporated into the case record.

Mary Volinchak stated she moved into her house 1969 and all the houses around her were one family homes. Mr. Koch asked her to wait as the board will hear testimony from those in support of the request first.

Patricia Murphy-Oesch, 6390 Fairview Road, stated when she purchased the property it was a tri-plex. She purchased it for her retirement. She was not aware it was illegal. The plumbing and everything was there. She tries to keep up with it to the best of her ability. She put a lot of money into it last year. The roof was bad. She admitted to having a run of bad tenants. Some lie and give false records.

Mr. Koch acknowledged the Board had heard all this before but a conversion plan was requested. Mrs. Murphy-Oesch stated she did not have a conversion plan but did have a drawing of apartment three which is the first floor in the back and detached from the front with the exception of the utility room. She stated she was going to put extra drywall up as she has been asked to do. Mr. Koch disagreed and stated the board wanted a conversion plan that can be reviewed and approved by the building inspector prior to any work being done. He stated without a conversion plan we are no further along than when she left the last hearing in December. Mrs. Murphy-Oesch responded that if she could not have a tri-plex and instead a duplex she could make the ceiling fire retardant and open the upstairs into the other apartment. Mr. Koch advised her she is assuming the fire retardant walls are adequate and advised no one on the board is qualified to make that call. Mrs. Murphy-Oesch stated that is what she thought.

Mr. Koch advised her she need a qualified architect or engineer to provide a conversion plan. Mr. Beaudis stated he agreed with Mr. Koch that no new information was provided to assist the board in making a decision. Mrs. Murphy-Oesch stated she misunderstood

and thought she had to make the building compliant with fire code. Mr. Koch stated a fire wall doesn't insure the building is safe, for instance a fire will not reduce the risk of an electrical fire from faulty wiring. He expressed his concern that he wanted to be sure the building is code compliant. Mr. Koch advised her she needed an architect to review the building and submit a conversion plan to the building department and the plan will insure code compliance. Mr. Koch acknowledged there is utilities for a tri-plex but that does not insure they are code compliant. He expressed his concern for the safety of her tenants. Mrs. Murphy-Oesch stated she had a broken water line but when she received the letter last year she stopped doing anything further other than fixing a leak upstairs.

Mr. Satterlee observed she has some ideas but no plans. He stated the discussion was not to do any work until plans were submitted and approved prior to work being done. Once plans were submitted and reviewed than she would have a better understanding of what she wants to do with the building based on costs. Mr. Koch stated she needs an architect to stamp the drawings and then the building inspector would review and approve the plans to eventually include a final building inspection. He emphasized the board can give an approval but the stipulation would be approved drawings and an occupancy permit from the building inspector, but at this point there is nothing to review. Mr. Koch once again explained the need for an architect. He suggested continuing the case again for 90 days to give her time to secure drawings.

Mr. Koch advised her to secure drawings and have them approved by the building inspector than come back to zoning to secure approval and then do the work. Mr. Satterlee advised the process would be similar to Section 8 process. Mrs. Murphy-Oesch stated she was familiar with Section 8. It was determined by Mr. Koch that this was beyond the scope of a house inspector but she could hire one to determine the initial costs and to determine whether it would be worth it to hire an architect to prepare a conversion plans. He emphasized a home inspector is geared to a buyer and not necessarily applicable to this issue. He gave examples of what a home inspector does. Mrs. Murphy-Oesch asked if a home inspection report would be sufficient. Mr. Koch answered in the negative and stated it would give her an idea of what she is looking at but she would still need an architect. Mr. Satterlee stated it probably was a three-plex but the case has been dumped into the board's laps. Mrs. Murphy-Oesch stated she was sorry for wasting everybody's time.

Mr. Glaros asked if anyone can recommend an architect. Zoning Inspector Crivelli advised not to recommend anyone. Mr. Koch also stated he does not give recommendations. Mr. Koch suggested a google search and interviewing architects. He also suggested a home inspector could provide a preliminary view prior to hiring an architect. Mrs. Murphy-Oesch appeared confused and her daughter briefly explained what the board wanted and Mr. Koch reviewed it again. There was additional discussion of the process. Zoning Inspector Crivelli summarized that a home inspector can provide a punch list that will help her decide if the process is worth it. If it is, an architect will draw a conversion plan for review and approval by building inspections. At that point, she can then reappear before the board for their approval. Mr. Koch advised this is similar to a commercial use. Zoning Inspector Crivelli advised her to ask the building

BOARD OF APPEALS PUBLIC HEARING – JUNE 29, 2016

inspector if she will need stamped drawing. Mr. Koch advised they will have to be stamped. Zoning Inspector Crivelli emphasized she needs to bring zoning updated plans that have been approved by building inspections. He emphasized he only needs copies of the plans approved by the building inspector.

There was continuing discussion of the process and maybe converting the building back to a single-family dwelling. Zoning Inspector Crivelli stated he would try to schedule a meeting with the building inspector to review the process to convert back to a single family.

2015-21-A-Continued: Motion by Mr. Satterlee to continue the case for 90 days with the understanding the applicant comes back with an approved conversion plan and approval from building inspections.

Seconded by Mr. Glaros.

Roll Call Vote: Mr. Glaros - Yes; Mr. Satterlee - Yes; Mr. Basista - Yes; Mr. Beaudis - Yes; and Mr. Koch - Yes.

There being nothing further to come before the Board, the hearing was adjourned at 8:35 P.M.

AUSTINTOWN BOARD OF ZONING APPEALS

Darren L. Crivelli, Zoning Inspector, Austintown Township

APPROVED: _____
Joe Koch – Chairman

DATE: _____