

BOARD OF APPEALS PUBLIC HEARING – AUGUST 11, 2016

PUBLIC HEARING
BOARD OF ZONING APPEALS
August 11, 2016

The Austintown Township Board of Appeals held a Public Hearing on Thursday, August 11, 2016, at the Township Building, 82 Ohltown Road, Austintown, Ohio, for consideration of the following cases:

APPEAL CASE 2015-06-A- Austintown Township Board of Appeals-Grayson;
APPEAL CASE 2016-08-A-Pugh; and
APPEAL CASE 2016-10-A-Perry.

The following Board members were in attendance:

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

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 2015-06-A-Continued

The Austintown Township Board of Appeals, 82 Ohltown Road, Austintown, Ohio, 44515, will conduct a review of Appeal Case 2011-14-A under the terms of Article XVI-Conditional Uses, 1606-Review Of All Conditional Use Permits, of the Austintown Township Zoning Ordinance, as amended through November 25, 2014, permitting the operation of the “Steve Grayson Motors” used car lot as a conditional use located at 5202 Mahoning Avenue. The Board of Appeals will take under consideration the reissuance of the conditional use permit and may modify the requirements for the continued operation of the use as a prerequisite for the reissuance of the conditional use permit or the Board of Appeals may revoke the conditional use.

Zoning Inspector Crivelli referenced an updated mailing list since the January 21st public hearing and the letter of confirmation with the nine (9) required items highlighted from that hearing.

Mr. Koch stated the mailing list for case 2015-06-A-Continued will be incorporated into the case record.

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Steve Grayson testified that he hoped he complied with all the rules and changes that he was supposed to do. Mr. Satterlee inquired about the number of cars on the lot. Mr. Grayson stated he did not know how many cars are on the lot. Mr. Satterlee stated there is more than 25 cars on the lot. Mr. Grayson stated he has a mechanic and salesman. Mr. Satterlee estimated about 40 cars on the lot and advised that coming to a meeting he should have known to reduce the inventory. Mr. Grayson stated his employee who runs the business was unable to attend this hearing. Mr. Satterlee recognized compliance with items such as painting. Mr. Grayson stated there was debris from the change out of the digital billboard. There was discussion of a vehicle in the rear and if it was operational Mr. Grayson stated an old Cadillac and boat were removed from that area today. Mr. Basista stated that should have been done month ago and stated there were 34 cars on the lot today. Mr. Grayson stated he removed the bad fencing and painted the whole building. The doors are all operational. The exterior lights are all operational including one above the door, one above the side that shines down, and one on the right hand side.

Mr. Satterlee observed that before every meeting there are more cars on the lot than permitted. Mr. Grayson stated he did not know how many cars are permitted, his guy who runs the lot could not be here tonight, and he has difficulty walking the parking lot to count cars. Mr. Satterlee advised him he has titles to the cars, thus, he would know how many cars he has on the lot. Mr. Grayson agreed he should know the number of cars on his lot.

Mr. Koch inquired about the trailer being removed (item No. 3). Mr. Grayson stated the trailer was removed and it is only there to haul a car that is broke down to where ever it needs to go. Otherwise, the trailer is not at the property.

Mr. Satterlee asked what he is going to do with the cars. Mr. Grayson stated tomorrow he will count them than begin to remove them. Spitzer Chevrolet will allow him to park cars at their property and he has 12 out there right now. Mr. Glaros stated he was there Tuesday of this week and there were 42 cars on the lot. He observed that Mr. Grayson has been in violation of the terms set from the last meeting the entire time. Mr. Grayson stated he will take responsibility for what has happened and if given the opportunity he will take care of it tomorrow.

Mr. Satterlee advised he has been given extended opportunities. Mr. Grayson acknowledged that. Mr. Satterlee stated he wanted to see the business succeed but just follow the rules. Mr. Satterlee expressed frustration that his car lot manager did not attend the hearing. Mr. Grayson stated Eric Stevens is still employed and working there.

Mr. Glaros inquired about sales. Mr. Grayson stated in 40 days he has sold two cars. Used car dealer percentages are down. Nobody has any money to buy cars.

No one else in attendance to speak for the request.

No one else in attendance to speak against the request.

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The Board adjourned into executive session at 7:15 P.M.

The Board reconvened from executive session at 7:20 P.M.

Mr. Satterlee advised Mr. Grayson he will lose his car lot if a vote is taken and he has a hard time complying with rules. He acknowledged an attempt was made to fix items on the list. He advised he will make a motion to continue the case to address the amount of cars on the lot and to address any other open issues. Mr. Satterlee expressed his opinion the lot was still a mess. He suggested he clean up the lot. The Board is going to bring him back the first of the year and it will be his last chance.

2015-06-A-Board of Appeals-Grayson: Motion by Mr. Satterlee to continue the case until January 5, 2016.

Seconded by Mr. Glaros.

Roll Call Vote: Mr. Satterlee - Yes; Mr. Glaros - Yes; Mr. Basista - No; Mr. Simms - Yes; and Mr. Koch - Yes.

Zoning Inspector Crivelli advised Mr. Grayson to continue cleaning up the lot and to reduce the vehicle inventory to 25 cars immediately. Mr. Grayson stated he will do that tomorrow. Mr. Grayson thanked he board. Mr. Satterlee stated no more excuses next time.

APPEAL CASE 2016-08-A-Continued & Revised Request

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 I-Definitions: “Private Garage” and 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 28’ x 46’ x 19’6” (1,288 sq. ft.) detached garage to be placed at the established front setback line with a non-accessible 8’ x 12’ attached porch at 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 referenced an updated site plan and two pages of elevation drawings. Also read into the case record was a letter of objection from Michael and Mary Novak.

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

Brian Pugh, described the new layout with the breezeway. There was discussion about internal access. Mr. Pugh asked why the Novaks did not have to come to the hearing. Zoning Inspector Crivelli advised they can submit a letter stating their position, however, since they are not here and he cannot cross-examine them a court of jurisdiction would note that.

Mr. Satterlee stated the garage should be smaller and the placement adjusted so that when on the front porch you are not looking at the garage. He stated he was more in favor of a rear yard variance with a smaller garage in line with the house. He acknowledged the size of the lot but felt the proposed garage is too big. Mr. Pugh stated they came from a house with a five car garage and he needs more space to get stuff out of the driveway. There was reference to the boat. Mr. Pugh stated the garage has to be at least 28 feet deep as the boat trailer is 26 feet long. They also have three cars and four-wheelers. Mr. Pugh observed there is not enough property in the rear to make it wide enough.

Mr. Satterlee expressed a desire to see other options. Mr. Basista observed he is asking for twice the allowed size. Mr. Koch observed it is a garage with a house attached and he could see home values being reduced and the proposal is an eyesore. He suggested off-site storage.

Mr. Pugh asked if it would be acceptable if it were smaller and placed in the rear yard. Mr. Satterlee was open to the suggestion and commented that it would fit in better. There was discussion of a compromise size and placement and re-platting the two lots into one versus straddling the property line. Mr. Pugh stated he needed a size for two cars and a boat. He wants single and double car garage doors. The boat is 8 ½ feet wide requiring a ten foot door. Mr. Koch expressed concern that none of the neighbors showed up for the hearing. Mr. Pugh stated he talked to the neighbors. Mr. Koch stated neighbors don't want to speak out against other neighbors. Mr. Koch stated he wants to see a scaled three dimensional drawing of the house and garage. He also suggested that the neighbors sign-off on the drawing as this proposal will change the appearance of the neighborhood. Mr. Satterlee asked that there be a definite size so he does not undertake the expense to be denied later. He would like to see a definite size. Mr. Koch advised this is a tough call.

Mr. Pugh asked for a determination regarding the attachment. Zoning Inspector Crivelli stated that since you have to exit the house to enter the garage and there is no interior access between the two structures than it is viewed as detached as the interior floor plan does not allow for a man-door. He referenced the mother-in-law suites as requiring interior access as a similar determination.

Mr. Glaros asked if he could store the boat off-site. Mr. Pugh stated he uses the boat to often but does store it in the winter time.

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No one else in attendance to speak for the request.

No one in attendance to speak against the request.

The Board adjourned into executive session at 7:49 P.M.

The Board reconvened from executive session at 7:59P.M.

Mr. Koch stated the Board wants to work with him but there will have to be a compromise. It was determined that the same Board including the two alternates will hear the continuance if granted. Mr. Satterlee suggested making it smaller and moving it towards the back. Mr. Koch stated the Board is headed towards detaching it and moving it back to the corner and cocking it is such a way to make it aesthetically acceptable. He suggested the design be blended into the house with dormers or false dormers, roof pitches, and height.

2016-08-A-Continued: Motion by Mr. Satterlee to continue the case, have the applicant return with new drawings depicting a smaller building placed in a different position and aesthetically looking more like a house - matching the house.

Mr. Koch gave him a copy of a drawing marked as Exhibit “A” of what the Board came up with in executive session (in red) . There was discussion of the ceiling and garage doors. It was suggested by Mr. Koch that 30’ x 30’ would allow for storage and the garage would be square. Mr. Koch suggested a cupula to give it some character. There was discussion of a side yard variance in the future.

Seconded by Mr. Basista.

The motion was summarized by Zoning Inspector Crivelli as requiring better three-dimensional drawings for a 30’ x 30’ structure, a different placement, and aesthetically to match the house.

Seconded by Mr. Basista.

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

Based on the testimony given and the Board’s concerns, Zoning Inspector Crivelli suggested the applicant secure approval signatures from the neighbors once he has the updated drawings completed and prior to the next hearing.

APPEAL CASE 2016-10-A

Linda and Frederick Perry, 5699 Baylor Avenue, Austintown, Ohio, 44515, appeals from the decision of the Austintown Township Zoning Inspector and requests a use variance from the terms of Article VI-Residence R-1 District, Section 601-Permitted Uses,

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Paragraphs 1 & 2 and Article XVII-Supplementary District Regulations, Section 1711-Home Occupations - Paragraph 1, of the Austintown Township Zoning Ordinance, as amended through February 25, 2014, to allow for a tattoo salon to perform “Permanent Makeup” within the basement of the single-family dwelling located at 5699 Baylor Avenue. A tattoo salon to perform “Permanent Makeup” business is not listed as a permitted use within the Residential R-1 District regulations or as a permitted home occupation. Said property is zoned as a Residential R-1 District in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Crivelli read the applicant’s letter of request into the case record, referenced a site plan and interior floor plan, the case mailing list, and three plat maps prepared by the zoning office.

Mr. Koch stated the mailing list for case 2016-10-A will be incorporated into the case record.

Linda Perry, 5699 Baylor Avenue, stated the letter explains her request. She needs to be home to help her husband. She has owned two tattoo establishments. She is certified. She has taken classes. She knows people who work out of their houses that have been certified by the health department. She described her husband’s medical condition and became very emotional. She has been a tattoo artist for 18 years and has always been certified and carries insurance. Dave Fetchko from the health department advised her to talk to zoning. She had a business in North Jackson at the corner of Mahoning Avenue and Route 45 for two years and now operates on South Raccoon Road near Wedgewood Pizza for the past 10 to 12-13 years. She also drives a bus for the schools. She has one employee but let him go. She does tattooing and permanent make-up. The permanent make-up is geared to women and takes from 1 1/2 hours to 2 hours. She will be offering tattoos to men. She will have no signage. Her customers are people she knows and referrals.

Mr. Basista inquired if she had a variance regarding a motorcycle repair business. Mrs. Perry did not have an answer and said that is her husband’s stuff and she knows nothing and doesn’t want to know nothing as she works a lot of hours.

Mr. Satterlee inquired about the type of variance. Zoning Inspector Crivelli stated it was a limited use variance and stipulated that it was not a conditional use. He suggested framing a motion that is applicable as long as she owns the house.

Mr. Koch inquired about her husband’s condition. Mrs. Perry explained his medical condition and stated he is on a lung transplant list. He is 62 years old and has been sick the past five years.

Mr. Koch inquired about the drawings. Mrs. Perry approached the Board and there was discussion of the floor plan.

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Mr. Satterlee asked how she will secure clients. Mrs. Perry stated she will not put signs out but uses facebook and Instagram along with word of mouth. She will do only one person at a time. Her shop ran from 5:00P.M. until a tattoo was completed. She estimated her sales at \$8,000.00 per year. Her rent was \$600.00 a month. She does eight craft shows a year. Mr. Koch stated he understands the hardship but is trying to get a feel for the business. She stated she would do one to two days a week. She will not work Wednesdays or Thursdays as she has her grandkids on those days. She does not want to tie her weekends up especially when school is in session.

Mr. Satterlee stated it sounds more like a hobby. Mrs. Perry agreed with that statement. She loves tattooing and sees herself fading out of it for the permanent makeup. She is hoping to take further classes in October for areole tattooing that would be done at a doctor's office unless she is doing someone she knows. Her certificate would certify her to work in a medical office.

Mr. Koch inquired about gross sales in the residence. Mrs. Perry estimated making a few hundred dollars a week although she could not predict a steady business. She wants to focus on permanent makeup but will still do tattoos. She will have one or at most two customers per day. She is not doing this to get rich. She enjoys it. Mr. Koch stated she would have a competitive advantage operating out of her home. He expressed concerns about the level of business at the house and at the township's expense. She stated she was not doing a large business on Raccoon and most of her business was appointments.

No one else in attendance to speak for the request.

No one in attendance to speak against the request.

The Board adjourned into executive session at 8:42 P.M.

The Board reconvened from executive session at 8:54 P.M.

Mr. Satterlee asked if she would have no more than five customers a week. Mrs. Perry stated she would work two days a week and no more than 1 to 2 customers per day. Mr. Satterlee suggested five customers a week. Mrs. Perry was in agreement with that and stated she does not have time to do more as she has to take care of her husband and the house.

2016-10-A-Perry: Motion by Mr. Satterlee to approve the request with no more than five (5) customers per week with the variance expiring at midnight December 31, 2018.

Mr. Koch summarized the Board giving her two years and five months to operate. Mrs. Perry stated the Board of Health does not pro-rate licenses. She stated her license cost is \$600.00 and then she would have to secure a new one for the next year. She may not start tattooing until December.

Seconded by Mr. Basista.

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

Mrs. Perry stated there would be no outdoor signage. Zoning Inspector Crivelli stated he would send her a letter of confirmation and advised her to forward it to the Board of Health when applying for her license.

There being nothing further to come before the Board, the hearing was adjourned at 9:00 P.M.

AUSTINTOWN BOARD OF ZONING APPEALS

Darren L. Crivelli, Zoning Inspector, Austintown Township

APPROVED: _____
Joe Koch – Chairman

DATE: _____