

PUBLIC HEARING
BOARD OF ZONING APPEALS
October 20, 2016

The Austintown Township Board of Appeals held a Public Hearing on Thursday, October 20, 2016, at the Township Building, 82 Ohltown Road, Austintown, Ohio, for consideration of the following case:

APPEAL CASE 2015-21-A-Patricia Murphy-Oesch.

The following Board members were in attendance:

Mr. Joe Koch – Chairman
Mr. Michael Beaudis – Vice-Chairman
Mr. Robert Satterlee
Mr. William Glaros
Mr. Dale Basista
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 2015-21-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, 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 letter of confirmation dated July 5, 2016 as follows: The Board of Appeals continued your case for 90 days with the stipulation that you submit a conversion plan to the Mahoning County Building Inspector for review and approval. Once the conversion plan has been approved by the building inspector, please submit eight (8) copies to this office for review and final determination by the Board of

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Appeals at a future hearing date. He also stated that prior to scheduling this hearing that conversion plans had not been submitted to the Mahoning County Building Inspections department. He advised the 90 days given to the applicant at the June 29th hearing has expired.

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

Patricia Murphy-Oesch, 6390 Fairview Road, Austintown, Ohio, 44515, testified that the last time she was here she misunderstood the Board and she received a home inspection on August 17th. She stated a few things need to be changed. She bought the building as a tri-plex and it should be left that way. She acknowledged it doesn't have a fire wall above one ceiling, otherwise, it has two layers of drywall every else. All the GFI's are correct. The plumbing is separated. The furnaces are separated. She stated her husband has come down with cancer and she is befuddled with this.

Mr. Satterlee inquired about the letter of confirmation describing what the Board requested. Zoning Inspector Crivelli stated that was the letter he just read which was mailed to her after the last meeting.

Mr. Beaudis asked if she didn't understand what the Board wanted done. Ms. Murphy-Oesch stated she thought she had to do an inspection and that is what she did. Natalie Winkle, 270 Marcia Drive, stated they were told to have an inspection done to see if it was worth proceeding versus investing more money in something that was not viable.

Mr. Beaudis observed they were instructed to secure a conversion plan. Ms. Murphy-Oesch stated she did check on some conversion plans and they were like \$5,000.00 and she does not have the money right now. She stated she would need time to get that together especially since her husband is ill. Mr. Beaudis reminded her that they have granted two continuances. She stated she has good tenants now. The lady in the front is excellent and the guy upstairs is real good. The neighbors are no longer complaining.

Mr. Koch stated continuances were granted so she could obtain something from the building department. There needs to be a conversion plan to even consider the request. He referred to the home inspection as an observation and not a conversion plan. Ms. Murphy-Oesch stated she talked to two people, a father and a son, but she just has some numbers and some names. Mr. Koch stated the Board cannot help her without any information. The continuances were given so she would have time to assemble a conversion plan that would be acceptable to Mahoning County to determine if the dwellings are in compliance with code.

Mr. Koch emphasized the need to get Mahoning County Building Inspections involved. Ms. Murphy-Oesch disagreed with that interpretation. Mr. Koch asked that the letter be reread into the case record. Zoning Inspector Crivelli read the letter of confirmation dated July 5, 2016 that reads as follows: The Board of Appeals continued your case for 90 days with the stipulation that you submit a conversion plan to the Mahoning County

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Building Inspector for review and approval. Once the conversion plan has been approved by the building inspector, please submit eight (8) copies to this office for review and final determination by the Board of Appeals at a future hearing date.

Ms. Murphy-Oesch asked if that would have to be drawn by an architect. Mr. Koch stated it would have to be acceptable and approved by the building department. He emphasized the letter is very clear. Ms. Murphy-Oesch stated she does not have the money to pay for an architect. All three spaces are leased right now.

Mr. Satterlee empathized with her but advised that Board wanted a conversion plan and building approval. Ms. Murphy-Oesch stated that everyone she talked to wanted money up front and once contractor did not want to work for her since Joe is on this board. Mr. Koch expressed his concern if something happened as it appears to be an unsafe structure and once again pointed out the importance of building inspection's approval. There was continued discussion of when it became a tri-plex and the zoning inspector advised she was cited in the 1980's for a tri-plex by the previous zoning inspection. He observed that this process has been going on for over a year.

There was further discussion of when it was/became a tri-plex. Ms. Murphy-Oesch stated she never received a letter from the previous zoning inspector. She stated she would do whatever she had to do to get approval. Mr. Koch explained to her in detail what a conversion plan is and gave his opinion that the house does not comply with code and explained his role as a public official and his responsibility for safety as she is going to continue leasing apartments. Ms. Murphy-Oesch stated a neighbor told her at one time it was a four-plex. There was further discussion of conversion plans.

The home inspection report was marked as Exhibit "A".

Mr. Basista asked if she had taken care of some of the safety issues in the report submitted. Ms. Murphy-Oesch stated she had a couple GFI's installed and work was done in the utility room. Mr. Satterlee discussed codes and updating for rentals. Mr. Koch observed the Board has nothing to base an approval on. Ms. Murphy-Oesch stated she does not know where to start. Mr. Beaudis asked why she did not call zoning for advice during the continuance. Mr. Koch stated he will not support this as it puts multiple families at risk. Ms. Murphy-Oesch stated she tries to comply and be honest. She asked the Board to help her.

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 7:33P.M.

The Board reconvened from executive session at 7:39 P.M.

2015-21-A-Continued- Murphy-Oesch: Motion by Mr. Beaudis to deny the variance request based on the testimony given and, specifically, the Board did not receive a conversion plan as requested.

Seconded by Mr. Glaros.

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

Zoning Inspector Crivelli advised the applicant she has 30 days to file an appeal in Mahoning County Common Pleas Court. An appeal will place a stay on any further enforcement. Otherwise, the building has to be converted to a single-family dwelling followed by zoning and building inspections or a state complaint will be filed against her in County Court #4. He suggested she seek legal counsel or convert it back to a single-family dwelling.

There being nothing further to come before the Board, the hearing was adjourned at 7:42 P.M.

AUSTINTOWN BOARD OF ZONING APPEALS

Darren L. Crivelli, Zoning Inspector, Austintown Township

APPROVED: _____
Joe Koch – Chairman

DATE: _____