

**Hiram Township Board of Zoning Appeals  
Yoder Application for Variance  
July 11, 2018**

Board Members: Chairman, Janet Pancost, Tierney Bryant, Gary Bott, Judy Zidonis and Kathy Schulda.

Public Present: Jim Stankus, Mervin Yoder, Jonathan Yoder, Frank Novak, Rich Preisendorfer, Zoning Inspector Rich Gano.

The meeting was called to order at 7:00 p.m.

Janet Pancost explained the Board of Zoning Appeals and the evening's process. The Board members then introduced themselves.

Secretary, Eric Hankinson stated that a legal notice for the meeting was published on June 29, 2018 and that adjoining property owners were notified via certified mail on June 26, 2018.

Ms. Pancost asked for affirmation (being sworn in) for those audience members in attendance that wish to speak during the meeting.

Ms. Pancost then prompts the individual(s) that filed the variance to please speak up as to why they want the Variance. Jonathan Yoder explains his reason for the Variance request (built the building where he did because he did not want to clear out 40-50 trees that were on the property, and did not want it interfering with existing septic system leach bed). Ms. Pancost asked Mr. Yoder to come up and draw a sketch of where the septic system is in relation to his house and outbuilding since that was part of the reason for this Variance request. Ms. Schulda asked some clarifying questions about Mr. Yoder's septic system.

Ms. Pancost clarified that a reason for this Variance meeting is because the outbuilding was constructed without a permit and no permit was requested. Mr. Yoder responded that he is from Parkman Township and did not realize that Hiram had requirements regarding Agricultural use. Mervin Yoder explained that he had time available and prompted his son to build the building.

Ms. Pancost asked about the foundation of the outbuilding. Jonathan Yoder responded that the building is a pole building with 4ft holes and rock at the bottom. Mervin Yoder responded on how the posts are set and that about 4ft down into the ground there is rock/shale.

Rich Preisendorfer mentioned to the Board that he had recently built an outbuilding as well and confirmed Mervin Yoder's comment about the rock just 4ft down into the ground in that area.

Ms. Pancost asked the Yoder's if they did the construction themselves. They responded "yes"

Ms. Schulda asked how many horses are in the barn. Jonathan Yoder said only one horse. Ms. Schulda commented that the Board is not concerned about where the horse pastures, but the location of the outbuilding is in question.

Ms. Pancost and Mr. Gano commented about the size of the outbuilding (700sq ft which is in compliance) but the setback from the Road Right of Way and the rear yard distance are an issue.

Mr. Preisendorfer commented if the outbuilding was in the back near the septic, that if the septic fails then there would be issues with handling the leach bed remediation as he could not add-on. Ms. Schulda responded that the County now allows septic aeration systems to be installed that do not require leach beds.

Ms. Bryant asked for some clarification around the land building location drawing submitted by Mr. Yoder. This then prompted a discussion with Ms. Pancost and Mr. Yoder regarding possible other options that could have been used for construction of the outbuilding.

Frank Novak asked the Board if Jim Stankus (the only adjacent neighboring property owner present) doesn't have a problem with the location of the outbuilding then can't we just let things go. Prior to the Board answering, he followed up asking Jim if he had any issues and Jim replied that he did not. Ms. Pancost did go over why residents get permits and why the meeting was called regarding the issues with the Yoder's construction of an outbuilding.

Mr. Preisendorfer asked the Board if any feedback from the neighbors has any bearing with the Board. Ms. Pancost said yes the Board takes attendee feedback into account.

Ms. Schulda asked Jonathan Yoder if he was planning to take any of the trees down. He replied he will not do any clear cutting of the trees next to the outbuilding. Ms. Schulda then asked if Jonathan Yoder would have any issue with making the non-removal of the trees a condition of approval if Variances were to be issued.

Ms. Pancost did mention that while a Gentleman's Agreement to not clear cut the trees would be great, the Zoning can't really enforce that in a Variance. Ms. Schulda agreed but did ask if that could still be written into the Variance.

Mr. Bott mentioned that he agreed with the Zoning, and that Zoning should be applied to the lot in question. Ms. Bryant asked the Yoder's what their end goal of the Variance meeting was. Mervin Yoder responded that he was hoping for a Variance for the building so that it can still stand.

Mr. Gano did mention that the Trustees have been discussing having signs posted at the Township limits that Hiram Township is a Zoned community.

Ms. Schulda and Ms. Bryant commented and agreed that there should be penalty regarding the construction of the outbuilding. Ms. Pancost iterated over the 3 issues at hand: no building permit requested prior to construction, the setback from Right of Way was not met, and the outbuilding is partially in front of the house.

Mr. Bott requests to go into private deliberations. Ms. Pancost explains what private deliberations is. All non BZA Board members exited the Township Hall at 7:52pm.

BZA Variance Meeting back in session at 8:11pm. Ms. Pancost asks all attendees if they have any further questions or comments.

Mrs. Pancost then moves the meeting onto reviewing the Variance Guidelines Checklist:

Guidelines for Variance Request

- 1) ***Will the land yield a reasonable return or will there can be any beneficial use of the land without the variance?***

Kathy Schulda: Yes

Judy Zidonis: Yes

Janet Pancost: Yes

Gary Bott: Yes

Tierney Bryant: Yes

- 2) ***Does the variance prove substantial?***

Kathy Schulda: Yes

Judy Zidonis: Yes

Janet Pancost: Yes

Gary Bott: Yes

Tierney Bryant: Yes

- 3) ***Will the essential character of the neighborhood be substantially altered or will adjoining landowners suffer a substantial detriment as a result of the variance?***

Kathy Schulda: No

Judy Zidonis: No

Janet Pancost: No

Gary Bott: No

Tierney Bryant: No

- 4) ***Will the variance adversely affect the delivery of government services?***

Kathy Schulda: Yes

Judy Zidonis: No

Janet Pancost: Yes

Gary Bott: No

Tierney Bryant: No

- 5) ***Whether the applicant purchased the land with knowledge of the zoning regulation?***

Kathy Schulda: No

Judy Zidonis: No

Janet Pancost: No

Gary Bott: No

Tierney Bryant: No

- 6) ***Could the applicant's predicament feasibly be obviated through some other method other than the variance?***

Kathy Schulda: No

Judy Zidonis: No

Janet Pancost: No

Gary Bott: No

Tierney Bryant: No

7) ***Will the spirit and intent behind the zoning regulation be observed and will substantial justice done by granting the variance?***

Kathy Schulda: Yes, with reservations

Judy Zidonis: Yes

Janet Pancost: Yes, with reservations

Gary Bott: Yes

Tierney Bryant: Yes

Ms. Schulda makes a motion to approve the Variance with conditions: All other livestock housing must observe the 85ft setback from the Road Right of Way (chicken tractors/coops/etc), the property owner must acquire a Portage County Building permit, and a \$1,500 monetary fine for not complying with 85ft setback from Road Right of Way, outbuilding not being behind the house, and acquiring a building permit prior to construction. Ms. Bryant seconds the motion.

Roll Call Vote on the Motion:

Kathy Schulda: Yes

Judy Zidonis: No

Janet Pancost: Yes

Gary Bott: Yes

Tierney Bryant: Yes

Ms. Pancost explains the appeals process and journalizing the minutes to go into Public Record to Mervin and Jonathan Yoder. She also mentions to the Yoders that they can contact the Hiram Township Attorney if they wish to setup a payment plan for the fine.

The Board the moves onto journalization of minutes from the June 13<sup>th</sup> BZA meeting

Ms. Schulda motions to accept the minutes as is, Ms. Bryant seconds the motion.

Roll Call Vote on the Motion:

Kathy Schulda: Yes

Judy Zidonis: Yes

Janet Pancost: Yes

Gary Bott: Yes

Tierney Bryant: Yes

Ms. Schulda motions to adjourn, Ms. Bryant seconds the motion.

Roll Call Vote on the Motion:

Kathy Schulda: Yes

Judy Zidonis: Yes

Janet Pancost: Yes

Gary Bott: Yes

Tierney Bryant: Yes

The meeting is adjourned at 8:42pm.