

Fairfield Township Board of Zoning Appeals Minutes

For FTZA16-8V

Monday, January 23, 2017 @ 7:00 P.M.

The Meeting of the Fairfield Township Appeals Board held a meeting at the administration building 6032 Morris Road, Hamilton, OH 45011 in order to conduct Township Zoning business and was called to order at 7:00 P.M. by Donna Irvin, Chairperson.

Members Present: Michael Kirsch, Donna Irvin, Steve Weeks, Eric Vincent and Jim Lupidi.

Staff Member Present: Kimberly Lapensee, Assistant Administrator

Members Absent: Carol Spesshardt (Alternate)

The Pledge of Allegiance was honored.

Motion made by Michael Kirsch, second by Steve Weeks to approve the minutes of the April 23, 2015 and the November 16, 2016 meetings.

All in favor, Aye.

Comments by Board/Public: None at this time.

Studies/Investigations: None at this time.

New Business: None at this time.

Donna Irvin swears in Kimberly Lapensee.

FTZA16-8V – Mario Angulo, 6513 Liberty Fairfield Road

Ms. Irvin opened the public hearing portion of the meeting.

DESCRIPTION OF REQUEST

Ms. Lapensee states that this request is to create three new building lots for parcels without the required road frontage. The subject property is currently zoned A-1 Agricultural District and is on the west side of Liberty-Fairfield Road near the intersection of Princeton and Liberty Fairfield Roads. There are two parcels owned by Mr. Martinez. One parcel fronts on Liberty Fairfield Road. There is an existing house and the parcel is 1.0560 acres in size. The second parcel is located behind the house to the west and is 5.0710 acres in size. The larger parcel is bounded by a subdivision to the north and larger parcels to the south. There is one access point on Liberty Fairfield Road for the existing house (Lot#330). The existing house is 1,092 square feet in size and was built in 1964. There is no sewer for either of these parcels.

The applicant is requesting the following variance:

Area, Frontage and Yard Requirements Variance, per §8.6.2 of the Fairfield Township Zoning Resolution, the Area, Frontage and Yard Requirements for the A-1 district dictate that single family dwelling lots must have no less than 200 ft. of road frontage, 25 ft. side yard setbacks and a rear yard setback of 50 ft. with no more than 25% lot coverage.

At this time Ms. Lapensee introduces the information regarding the Variance request. The Staff report is read into the record.

FINDINGS OF FACT

- 1) The property along Liberty Fairfield currently has 200 feet of road frontage along Liberty Fairfield Road which is more than the minimum in an R-1 District. Frontage lots along major roadways were the most popular way to develop land at that time because the developer did not have to spent money up front on roadways and other infrastructure.
- 2) The owner does own the parcel directly to the east of the subject property and it is zoned A-1 Agricultural District. This property, if split will be retained by the applicant and he plans to build 3 new houses for his family members. There is an existing barn on Lot# 329.
- 3) There is no sewer available for the front parcel, but could potentially be available for the rear parcel through the subdivision to the north. The owner would have to get an easement to run it back to the three houses if the soil does not perk and it's not feasible to install three new septic systems.
- 4) The lots and parcels surrounding the property in question run in various sizes from 5 acres (mainly to the south) to .5 acres (to the north).
- 5) The owner plans to construct 3 new homes that will be approximately 2,700 square feet in size. They are 4 bedroom homes which will dictate a certain size for a septic field (based on the number of people living in the home). The owner will have to demonstrate and get approval for 3 separate septic fields (and backup fields) on this parcel through the health department. If approval cannot be given for septic, then the owner will have to pay to bring sewer to those new lots.
- 6) There is a pond at the rear of the property. All of the water to the rear of the property drains to the southwest and everything to the front drains towards Liberty Fairfield Road. The owner will need to demonstrate that they are taking care of the water runoff from the new impervious surfaces that will be created by building three new homes with driveways, sidewalks, patios, etc.
- 7) An access easement with maintenance will need to be established for all of the new lots and the existing home located at 6513 Liberty Fairfield. All new lots would need to enter/exit through the existing driveway.
- 8) Water is available along Liberty Fairfield Road. The developer would need to extend the water to those new properties.

- 9) If the lot is split into 3 somewhat equal pieces, that leaves each piece at approximately 1.6 acres in size. The zoning resolution states that there is a cap at 25% coverage for each parcel which would equate to .4166 acres or 18,150 sf. which is plenty of room for each house and possible accessory structures/buildings.
- 10) 25.8.2 VARIANCES. The Board shall have the power to authorize upon appeal in specific cases, filed as herein before provided, such variances from the provisions or requirements of this Resolution as will not be contrary to the public interest. Where the applicant seeks a use variance, said applicant shall be required to establish to the Board, proof by a preponderance of the evidence that unnecessary hardship will prevail unless the variance is granted. ***Where the applicant seeks an area variance, it shall be sufficient that said applicant establish to the Board, proof by a preponderance of the evidence that he has or will encounter practical difficulties in the use of his property.*** The Board shall consider the following factors and other factors that may be applicable in the judgment of the Board in determining a variance.
- a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance: ***The property cannot be used for anything but agricultural uses.***
 - b. Whether the variance is substantial: ***It could be substantial given the fact that the applicant is asking to split the existing 5-acre tract into three pieces. However, the pieces would be 1.6 acres in size which is larger than the lots to the north, but smaller than the parcels to the south.***
 - c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance: ***I do not believe the essential character of the neighborhood would be substantially altered by allowing additional houses or lots to be created in this area.***
 - d. Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, and garbage): ***I do not believe the variance would adversely affect the delivery of government services.***
 - e. Whether the property owner purchased the property with knowledge of the zoning restriction: ***Most property owners do not know to look at what a property is zoned let alone what that district allows or the frontage or area requirements for a lot.***
 - f. Whether the property owner's predicament can feasibly be obviated through some method other than a variance: ***There is no other way to allow the creation of this lot other than asking for a variance. There would be no other way to get a subdivision street into this area.***
 - g. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. ***The spirit and intent behind the zoning requirement will still be observed whether or not the lot is created. The property is large enough in size and will still be used in the same manner as before.***

The staff recommendations were:

Based on the Findings of Fact, staff recommends the conditional approval of the variance request.

Ms. Lapensee stated that the property will continue to be used for residential and will be larger in size than all the lots to the north but smaller than the parcels to the south. There is no sewer available in this area and the applicant will be required to get health department approval prior to receiving lot split approval by Butler County to install an on-site waste removal system (septic/mound/aerobic system). The property in front is zoned R-1 and subject property is zoned A-1. There is no minimum size lot in the A-1 district.

Staff recommends approval of the lot split without the required road frontage along Liberty Fairfield Road as required in the A-1 district subject to the following conditions:

- 1) The applicant will be required to receive health department approval from the Butler County Health Department prior to lot split approval. The approval will dictate the sizes of the lots and their locations. Approval may or may not be for 3 lots and could potentially be reduced in number which would increase the size of the lot per the health department.
- 2) Access for the property shall be limited to the existing driveway on Liberty Fairfield Road that currently services the front property. Any new driveway permits shall be approved by the Butler County Engineer's Office.
- 3) There shall be a recorded shared access and maintenance agreement between the owner of the existing property and any new residents or family which determines the maintenance of the easement area shared by all parties.
- 4) The applicant will be required to route all drainage for the properties to the pond area to the southwest corner of the existing property or to Liberty Fairfield Road. All water run-off shall be handled on site if possible.
- 5) The applicant will be required to run water to all new properties/houses for the development.
- 6) The existing barn will have to be located on/split with one of the new parcels created.
- 7) All existing accessory structures will have to be removed or moved to exist with new parcels.

Kimberly Lapensee swears in all present at the meeting.

APPLICANTS COMMENTS

Mr. Mario Angulo, who is the applicant for the owner Armando Martinez, stated that they have had their soil testing done for the property and will most likely build three 3 bedroom houses on the property due to the locations of the septic fields. He stated that they plan to install a trench drain and direct the water on the back-half of the property to the pond area. Mr. Angulo stated that they plan to install a paved driveway with a cul-de-sac for fire access back to those three homes.

Mr. Vincent asked the size of the homes he was planning on building on the property. Mr. Angulo stated that they plan to build 2800 sf houses on the property. He stated that some houses may have larger garages than others.

Mr. Weeks asked if there are 4 parcels? Mr. Angulo explained how they would be splitting the parcels up. Ms. Lapensee stated that there will be 4 parcels in total in the end (1 in front and 3 total parcels in the rear).

Mr. Vincent asked what their timeline on this project will be? Mr. Angulo stated that they plan to start building this year and may finish all of them in 2017. They plan to start the rear house first.

Mr. Kirsch asked how wide the driveway is now? Mr. Angulo stated that the driveway is currently 22'-0" wide and is concrete up to the rear property line. From that property line to the garage it is gravel. Mr. Angulo is not sure how much wider they will make the driveway.

Mr. Weeks asked if there was an existing utility easement to the garage? Mr. Angulo stated no, they have electric running back to the property, but it is currently not in an easement. They will need to bring all utilities back from Liberty Fairfield Road.

Mr. Vincent asked if there was any way the Township could make this owner create an HOA? Ms. Lapensee stated that HOA's are generally attached to the creation of subdivisions where public open space and private drainage easements need to be maintained. The HOA is created to maintain those areas. She stated that the Township can require that the owner create an access easement and a shared maintenance agreement between the parties prior to the lots being split.

Mr. Lupidi asked how wide the cul-de-sac would need to be to get a fire truck back on the property? Ms. Lapensee stated that typically a cul-de-sac is an 80'-0" radius but she will check with the Fire Chief to see how wide the cul-de-sac needs to be.

Mr. Kirsch asked where the nearest fire hydrant was located? There is one on Liberty Fairfield near the entrance to the subdivision directly north and there are hydrants located on Bridgewater Lane as well.

Mr. Vincent asked how many meters would be on the property for the water? Mr. Angulo stated that there would be three separate meters for the 3 houses.

Mr. Lupidi asked if we could set a minimum lot size for the lots created. Ms. Lapensee stated that we could set a minimum size if the board wanted to but ultimately the health department will dictate that size of each lot based on where the septic systems can be located and the sizes of each primary and back-up field.

Mr. Lupidi asked what the distance is from the front of the property to the rear where the furthest house will be located? Mr. Michael Fisher, the applicants architect, stated that it would be around 600 to 700 feet.

Ms. Irvin asked if there was anyone else who wanted to speak in favor of this application? There was no one.

Ms. Irvin asked if there was anyone who wished to speak in opposition to this application.

Ms. Gunnell, 7771 Bridgewater Lane, stated that she had questions concerning the location of the rear house, and runoff from the property to the pond area. She stated that her house is located directly behind this parcel and she will be affected by the new house being built to the rear. Mr.

Argulo stated that the drainage for the area won't change. He stated that the water currently runs from the north west corner of the property south along the rear property line. He only plans to disturb the area where the house will be located and will route all drainage to the pond area. She asked where the septic fields will be located? Mr. Argulo stated that he doesn't know the exact location yet. He stated that he hired a person to locate the best area for each house and will have to have all of that approved by the Health Department. She also asked where the water line will be run from? Mr. Argulo stated that he will run all utilities from Liberty Fairfield Road so they are not disturbing any of the neighbors to the north.

Michelle Carroccio, 7791 Bridgewater Lane, stated that she was concerned about what type of house the builder was going to build and if it would be comparable to what is already existing in the neighborhood to the north? She stated that the houses range in size from 2000 sf to 2900 sf.

Scott Gunnell, 7771 Bridgewater Lane, asked about the driveway maintenance and who would be responsible for that? Ms. Lapensee stated that the township will require the owner to have a shared driveway access easement for all four houses along with a shared driveway maintenance agreement. He asked how much frontage was required for these new homes. Ms. Lapensee stated in an A-1 district, 200 feet of frontage is required for each lot. She stated that the applicant is requesting a variance to build 3 homes without the required road frontage for that district. Each lot will technically front on the private drive that will be built. Mr. Gunnell stated that he and his wife bought their house because they were told by the owners of his house that no one would ever build back on that particular piece of property. He stated that he enjoys living next to it and watching the wildlife from his back yard. He stated that he would like to see if remain a field instead of being developed.

Mr. Angulo asked if anyone remembered what the property looked like 10 years ago before Mr. Martinez bought the property? All the neighbors stated that the property looks so much better than it did before.

Ms. Irvin asked if anyone else wanted to speak in opposition or ask any more questions? No one raised their hand.

Ms. Irvin closed the public hearing portion of the hearing.

DELIBERATION

Mr. Vincent stated that he is okay with houses being back there instead of a farm of any kind.

Mr. Lupidi asked about the location of fire hydrants and how much hose are carried on each fire engine. He stated that he was concerned about the location of the rear house. He asked if Butler County has any regulations on the location of water lines, etc. Ms. Lapensee stated that they will have to meet all requirements of Butler County Water and Sewer. She stated that she can ask the Fire Chief how much hose they carry on each truck.

Mr. Lupidi asked about the width of the driveway and whether or not it would be wide enough for a fire truck. Ms. Lapensee stated that she will contact the fire chief to find out.

Based on the Findings of Fact a Motion in the staff report a motion was made by Steve Weeks to approved FTZA16-8V with the conditions recommended by staff:

- 1) The applicant will be required to receive health department approval from the Butler County Health Department prior to lot split approval. The approval will dictate the sizes of the lots and their locations. Approval may or may not be for 3 lots and could potentially be reduced in number which would increase the size of the lot per the health department.
- 2) Access for the new parcels shall be limited to the existing driveway on Liberty Fairfield Road that currently services the front property. Any new driveway permits shall be approved by the Butler County Engineer's Office and shall meet any requirements for heavy truck travel (for fire apparatus).
- 3) There shall be a recorded shared access and maintenance agreement between the owner of the existing property and any new residents or family which determines the maintenance of the easement area shared by all parties.
- 4) The applicant will be required to route all drainage for the properties to the pond area to the southwest corner of the existing property or to Liberty Fairfield Road. All water run-off shall be handled on site if possible.
- 5) The applicant will be required to run water to all new properties/houses for the development and shall meet all requirements established by Butler County Water and Sewer.
- 6) The existing barn will have to be located on/split with one of the new parcels created.
- 7) All existing accessory structures will have to be removed or moved to exist with new parcels.
- 8) The applicant will be required to install a driveway that is either paved or concrete that meets all standards for heavy truck traffic and the cul-de-sac at the end meets all standards for a turn-around to accommodate fire apparatus.
- 9) The applicant will be required to build three houses that are no less than 2,000 sf in size on each new parcel created.

Mike Kirsch seconds the motion.

Roll Call: (Kimberly Lapensee)

Donna Irvin: Yes

Michael Kirsch: Yes

Eric Vincent: Yes

Steve Weeks: Yes

Jim Lupidi: Yes

Application Approved by the Board

Adjournment: Mr. Michael Kirsch made a motion to adjourn the meeting, seconded by Mr. Steve Weeks. All in favor – Aye.

Meeting adjourned at 8:00 p.m.

Donna Irvin, Chairperson

Kimberly Lapensee, Secretary