

**SAGAMORE HILLS TOWNSHIP  
ZONING BOARD OF APPEALS MEETING**

**Wednesday, June 27, 2018– media notified**

The meeting was called to order by Vice Chair Mr. Christian Drago at 7:04 p.m.

Mr. Drago asked everyone in attendance to please silence all cell phones or pagers so that the meeting could be conducted without interruption, and thanked everyone in attendance for their cooperation.

All present recited the Pledge of Allegiance to the flag of the United States of America.

R/C: Spangler-present; Drago-present; DiGirolamo-present; Lewis-present.

Mr. Drago stated the first order of business was the election of officers for 2018.

Mr. Drago entertained a motion to appoint a Chairperson. Ms. Lewis made a motion to nominate Mr. Virost as the Chair for 2018. Seconded by Mr. DiGirolamo.

Mr. Drago asked whether there were any other nominations. The board replied no.

R/C Vote: all in favor, motion carried

Mr. Drago stated Mr. Virost in absentia is now Chairperson.

Mr. Drago entertained a motion to appoint a Vice-Chairperson. Mr. DiGirolamo made a motion to nominate Mr. Drago as Vice-Chairperson. Seconded by Ms. Lewis. Mr. Drago asked whether there were any other nominations. The board replied no.

R/C Vote: all in favor, motion carried

Mr. Drago stated the functions of the Board of Zoning Appeals.

The topic for the evening was an application requesting an area variance applied for by Mr. Michael Craig, 8010 Chaffee Road, for the construction of a second accessory building. The applicant proposes to build a 1,200 sq. ft. accessory building on a 1.09 acre lot.

The variance requested is as follows:

1. Section 3.5(B) of the Sagamore Hills Township Zoning Resolution states that “the aggregate area of the total detached accessory buildings may have a foundation area not to exceed 1 ½% of the area of the lot upon which the buildings are placed”. According to the resolution, a lot size of 1.09 acres would allow an accessory building or two buildings with a maximum size of 712.21 sq. ft. (1.09 acres x 43,560 sq. ft. /acre = 47,480.4 sq. ft. x 1 ½% = 712.21 total sq. ft. allowed)
2. The requested variance is 487.79 sq. ft.
3. Please note that there is a 120 sq. ft. accessory building currently on this lot. Should the variance requested be approved, this structure is to be removed.

Mr. Drago requested anyone planning to speak on this matter to please stand for the "Oath for Participation".

Mr. Drago administered the Oath for Participation as follows: “I do swear and affirm that the information and testimony given as part of this proceeding is true and accurate to the best of my knowledge and belief.”

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Mr. Drago asked whether notices were sent out. Mrs. Taylor replied yes.

Mr. Drago asked whether there was correspondence received. Mrs. Taylor responded yes, one letter.

Mr. Drago asked whether Mr. Wintle was present. Mr. Wintle replied yes. Mr. Drago asked Mr. Wintle to please take the oath of participation.

Mr. Drago gave the floor to Mr. Michael Craig.

Mr. Craig stated his reason for a variance request for a larger building was to have somewhere to store his motorcycles, woodworking supplies, motorcycle trailer, salt spreader and snow plow, additional items along an existing shed under a tarp and wood piles. Mr. Craig has numerous items in his yard and no place to put it indoors. The additional building would allow Mr. Craig to work on his show motorcycles and woodworking projects. Mr. Craig commented his house sits off a side street with a 500 ft. deep x 41 ft. wide area, where he cannot put up a privacy fence. Mr. Craig said this is useless space that he can't do anything with.

Mr. Drago opened up the topic for public discussion at 7:10 p.m.

Mr. Jim Szente, 1293 Romane Drive, commented he understands Mr. Craig's plight, but there are already two buildings on the property, one at a 45 degree angle to Romane, built within the time frame that Mr. Craig moved in with more stuff piled around it. Mr. Szente's biggest concern is we live in a community where aesthetically all the houses around us are nice, and is concerned about the amount of clutter, disarray and lack of maintenance that Mr. Craig's property has. Mr. Szente said all of the neighbors are pretty frustrated with the condition of Mr. Craig's property.

Mr. Brett Wintle, 8032 Chaffee Road, said he agreed with what Mr. Szente said. Mr. Wintle said with all of the clutter, the grass gets very high before it ever gets mowed. Mr. Wintle doesn't know if granting an oversized building would help.

Donna Webb, 8040 Chaffee Road, agreed with Mr. Wintle. Also, Ms. Webb doesn't believe all of the items Mr. Craig plans to put into the building would fit, and there would still be items outside. Ms. Webb said if Mr. Craig would organize and clean out items there would be no reason for a third building.

Mr. Drago asked whether there were additional comments. There were no additional comments. Public discussion was closed at 7:16 p.m.

Mr. Drago asked for a motion from the board.

Mr. DiGirolamo made a motion to approve Mr. Craig's application for the variance between what would be permitted which is 712.21 sq. ft. to 1,200 sq. ft., a difference of 487.79 sq. ft. as the zoning inspector has ruled, upon the condition that the 120 sq. ft. accessory building currently on the lot be demolished and the portable metal green building be removed. Seconded by Ms. Lewis.

There was a discussion among board members.

Ms. Lewis asked Ray Fantozzi, Zoning Inspector, whether Mr. Craig received any warnings or letters from the zoning department about the condition of his property as it is now. Mr. Fantozzi replied not from him.

Ms. Lewis asked if Mr. Craig would be allowed to build an accessory building and his property looked the way that it looks now, as some of the neighbors have said, would he then be liable for some sort of action from the township.

Mr. Fantozzi replied he would be as long as he was in violation of any of the zoning ordinances. Just because the yard looks the way it does he can't necessarily make him clean up the yard.

Mr. Lewis questioned whether Mr. Craig is allowed to have stacks of wood, a motorcycle trailer on his property and there would be no real action that could be taken by zoning or the township?

Mr. Fantozzi replied not unless something is untagged or has no plate on it, or if the fire marshall has something to say about it. If something is stacked in the front yard with a for sale sign on it, that is not allowed. Unfortunately as far as the yard looks and appears, Mr. Fantozzi can't really do anything.

Mr. Snell commented this is not a property that has its grass cut often, but seems to be cut before Ray gets it on the list.

Ms. Lewis commented that if Mr. Craig was allowed to build his accessory building and he put none of the current contents of the yard into that accessory building, there would still be no violation. Mr. Fantozzi replied at this point no.

There was a brief discussion.

Mr. DiGirolamo asked Mr. Craig what was in his garage. Mr. Craig replied two motorcycles that he rides, work benches and motorcycle lift that has one bike on it. There is no room in the garage to work on the bikes.

Mr. DiGirolamo stated if Mr. Craig built a 712.21 sq. ft. accessory building and eliminated the 160 sq. ft. building why would that not be sufficient for him outside.

Mr. Craig replied it would not work because a 712.21 sq. ft. building would probably only hold his tool boxes and his wood working equipment.

Mr. Craig commented he cannot move around in his garage to work on his bikes. The wood in his yard, his snow plow, salt spreader and a spare salt spreader would not fit in the 712.21 sq. ft. building.

Mr. DiGirolamo asked Mr. Craig how long he had lived in his home. Mr. Craig replied 3 years.

Mr. Craig commented he didn't realize the neighbors thought his grass grew too long.

Mr. DiGirolamo asked Mr. Craig whether he had a truck and a trailer. Mr. Craig said he has a truck and two trailers.

Mr. DiGirolamo asked Mr. Craig whether he had considered renting a storage area for these items. Mr. Craig replied no. It would not be convenient to have to travel to get his tool boxes, etc. Mr. Craig commented he has a lot of wasted yard space, which he pays for every month, and doesn't understand why he can't utilize it. Mr. DiGirolamo thought the combination of the 712.1 sq.ft. storage unit in his yard plus a storage unit that he could rent, he might get up to the 1,200 sq. ft. that he is asking for. Mr. Craig said he did not want to pay monthly for his empty yard and pay monthly for a storage unit.

Mr. Drago stated that Mr. Craig identified in his application neighborly out buildings, 30x45; 30x56; 24x40. Mr. Drago asked the two residents in attendance whether they had any of these buildings. One resident did but was not sure of the exact measurement. Mr. Craig went on Summit County GIS website and found out buildings in the area and measured them.

Mr. Spangler commented that the roof area scaled from the GIS website is not necessarily the same as the foundation area referenced in the zoning, due to roof overhangs.

Mr. Drago asked Mr. Craig what type of construction the out buildings were that he was referring to. Neighbors in attendance responded their out buildings were wood frame.

There was a brief discussion regarding the neighboring out buildings.

Mr. Drago asked Mr. Craig what type of construction he planned to use for the 1200 sq. ft. building he was requesting and would it fit in the area. Mr. Craig responded it would fit in the area and be a post frame building. Mr. Drago asked what height the building would be. Mr. Craig responded he did not have the exact building height figured out yet.

There was additional discussion regarding the size and height of the building.

Mr. Drago stated it appears that Mr. Craig's hardship is personal property that currently cannot fit in the storage allotment that he has and the interior space of his garage.

There was a brief discussion regarding wasted yard space and a fence.

Mr. Drago read Mr. Craig something from an opinion they received from the Summit County Prosecutor in December of 1999 confirmed at our last meeting and will confirm again with Mr. Snell the recitation from the Ohio Revised Code is still correct.

The basis for granting a variance is undue hardship.

“The test is not the convenience of the homeowner or the desires or wishes of the homeowner. The phrase “undue hardship” refers to a condition that the homeowner could not avoid in connection with his conformity to the zoning resolution and where there is no other solution to the problem. A variance is a response to a condition that has happened because of some event or accident or error that is not the responsibility of the homeowner. Some boards define a variance by what it is not rather than what it is. It is not a response to a request by a land owner to add something to his property, its use or dimensions because he wants it. It is not the granting of something that would affect the basic zoning resolution merely for the convenience of the owner. Also, if the homeowner creates a condition by his acquisition of additional personal property for his own convenience or additional vehicles and he has created a condition that was not contemplated in the zoning resolution this is not the basis for granting a variance.”

Mr. Snell confirmed the recitation of the Ohio Revised Code is current.

Mr. Snell read from the case law the seven points of the area variance into the record.

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
2. Whether the variance is substantial.
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance.
4. Whether the variance would adversely affect the delivery of government services; i.e; water, sewer, garbage
5. Whether the property owner purchased the property with knowledge of the zoning restrictions.

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6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Drago asked whether there were any further comments or questions. There were no comments or questions.

Mr. Drago closed the discussion.

Mr. Drago called for a vote.

Mr. Spangler-nay; Mr. Drago-nay; Mr. DiGirolamo-nay; Ms. Lewis-nay.

Mr. Drago stated the motion for a variance was denied. Mr. Craig's next avenue is the Court of Common Pleas to appeal this decision of this board.

Ms. Lewis made a motion to approve the minutes from the February 1, 2017 as written. Seconded by Mr. Drago. R/C Vote: all in favor

Mr. Spangler made a motion to adjourn at 7:50 p.m. Seconded by Mr. DiGirolamo. R/C Vote: all in favor.