

Minutes

Nimishillen Township Board of Zoning Appeals

4422 Maplegrove NE, Louisville, OH 44641

Wednesday, February 7, 2018 – 7:00 PM

Board Members Present: Anthony ‘Tony’ Mucci, Chairman
Pan Aslanides, Member
Bill Jeffries, Member
Jim Morris, Member

Board Members Absent: Gary Brahler, Secretary

Interim Zoning Inspector: Floyd Fernandez

Township Secretary: Shelby Dieffenbaugher

Purpose: (One Case)

Appeal #625 – David Edwards of 4641 Eastland Ave. NE, Louisville, Ohio 44641, Parcel #33-02412, Zoned R1-Single Family Residential, is requesting a variance for an Accessory Building to be in the side/front yard instead of the rear yard as required in Section 602.3; approximately 4 feet from the main building instead of the required 15 feet in Section 602.4 of the Nimishillen Township Zoning Resolution.

CALL HEARING TO ORDER:

Interim Zoning Inspector Floyd Fernandez introduced himself to the Board and explains to the Board about the variance. Mr. Fernandez stated that the resident has a hardship because the backyard floods. Currently, the storage shed by appearance is too close to the road and it can't be that closed to the road. Mr. Fernandez informed the Board that he will meet with Mr. Edwards tomorrow morning regardless of how this hearing turns out to discuss and work it out. Mr. Fernandez turns the hearing over to the Chairman.

Chairman Mucci opened tonight's hearing at 7:00 PM introduced all board members in attendance, the zoning inspector, and the township secretary.

Chairman Mucci swore in everyone in attendance by asking them to swear that the information they were about to present, either in oral or written form, is true and accurate to the best of their knowledge. The people responded by stating, "I do".

Chairman Mucci stated the first hearing of the year the Board votes for officers, however, since not everyone is here tonight, Chairman Mucci asks for a motion to have the Organizational Meeting next month. The Board agreed.

JIM MORRIS MOTIONED TO HOLD ELECTION OF OFFICERS AT NEXT HEARING SECONDED BY BILL JEFFRIES. The Board responded by saying 'I'. MOTION CARRIED.

Roll call voting:	Jim Morris	-- Approve
	Bill Jeffries	-- Approve
	Pan Aslanides	-- Approve
	Tony Mucci	-- Approve

The Board held a discussion on setting the hearing day and time. After discussion, the Board decided to wait until the next hearing.

Appeal #625 – David Edwards of 4641 Eastland Ave. NE, Louisville, Ohio 44641, Parcel #33-02412, Zoned R1-Single Family Residential, is requesting a variance for an Accessory Building

to be in the side/front yard instead of the rear yard as required in Section 602.3; approximately 4 feet from the main building instead of the required 15 feet in Section 602.4 of the Nimishillen Township Zoning Resolution.

David Edwards of 4641 Eastland Ave. stepped to the podium and explained to the Board that he would like to keep the shed where it is because the backyard has flooded almost to the back of his home. In order to get the shed to the backyard, Mr. Edwards stated he would have to move his fence. Mr. Edwards stated the 1 side yard is a hill and it's not level. The other side is right up against the neighbor's property line. Mr. Edwards informed the Board that he ran a tape measure from the shed to the house and it's roughly 9 ft. from the house.

Chairman Mucci stated that when he drove by the property the shed is already there. Mr. Edwards stated yes, he didn't know that he needed an okay to put the shed there. Mr. Edwards stated the he has never done this, put anything on a property, he didn't know that he needed approval for this.

Mr. Aslanides asked how long has the shed been there. Mr. Edwards stated he got the shed last summer, he doesn't remember the exact date. Mr. Aslanides asked if his swimming pool gets flooded to. Mr. Edwards stated yes, the backyard is in a flood zone and was told the swimming pool wasn't.

Chairman Mucci stated that Mr. Edwards had done his due diligence by getting a notarized letter from the neighbors. Mr. Edwards stated yes, he talked to all of his neighbors except for 1. It is the property with the oil well.

Mr. Jeffries informed Mr. Edwards that it is his understanding that he is coming in front of the Board asking for forgiveness because he didn't get a permit. Mr. Edwards stated yes, and he would like to leave it where it is. Mr. Jeffries asked if he received a permit for the pool. Mr. Edwards stated he believes, it was put in many years ago by Ohio Pools and they took care of all of that. Mr. Jeffries stated that according to Sections 602.3 & 602.4, a building should be 15 ft. from another structure and that fire officials would need to access the back of the house & that shed blocks all access on the north side of the home to get fire people to the back to help anyone. Mr. Jeffries stated that as for the hardship of getting the shed to the backyard, according to the Ohio Revised Code that is more of an inconvenience for you because you can put earth or block to level it back there. Much discussion followed.

Mr. Jeffries provided Mr. Edwards an aerial photo of his neighbor's properties with shed in their backyards. Mr. Edwards stated that he didn't want to put the shed back there for flood reasons, it would ruin it and everything in it.

Chairman Mucci stated that he could put in earth or put the shed on a platform. Chairman Mucci asked if it floods all the way up to the house. Mr. Edwards stated not all the way up, he is guessing 6 to 9 ft. from the back of the house.

Chairman Mucci asked if the Board had any more questions. Chairman Mucci asked if anyone in the audience would like to speak for the variance.

Heather Edwards of 6300 Apple St. stepped to the podium and informed the Board she is Mr. Edward's daughter. Ms. Edwards explains to the Board that the backyard slopes and when the pool was put in it was built up and even thought it was built up 2-3 ft. from the rest of the yard, it still floods over the entire pool. Ms. Edwards informed the Board that the back corner where he would

need to put the shed because of the way the yard slopes, when that area flooded it was waist deep water. In order to build the shed up so it won't get hurt by the flood, it would have to come up 3 to 4 ft. Ms. Edwards stated that it would take a significant amount of dirt to built it up and even with normal rains that area of the yard is so soggy, anything there is going to sink, which is why there's nothing there. Discussion was held regarding the surrounding neighbors with sheds.

Mr. Jeffries stated the regulations speak to it being in the backyard, it's not prohibited being in the side yard. It requires a setback for R1 of 40 ft. off the street and needs to be 15 ft. from the home and 8 ft. from the property lines. Mr. Jeffries suggested adding earth to the back to help build the shed up so it doesn't flood. Discussion followed.

Chairman Mucci asked if anyone would like to speak for or against the variance. Two residents in the audience voiced their opinions; however, Chairman Mucci stated that they needed to sign in and speak at the podium in order to be on record, otherwise their opinions did not matter.

John Bishop of 4661 Eastland Ave. stepped to the podium and informed the Board that the shed looks good and he understands why it's in the front because of the flooding in the backyard. Mr. Bishop stated why you would want to put something that expensive back there knowing it floods. Mr. Bishop stated that he also didn't know about zoning and that the way Mr. Edwards has done it, from the street it looks fine. Mr. Bishop stated that as for the safety concern, it seems like a fire truck could get back there. They would have to drive on his property to do that.

Mr. Aslanides asked Mr. Bishop if he lives right next door. He stated yes, he lives right next door. Mr. Bishop stated as far as building it up, it would be expensive because he would have to take his fence down to get in back there.

Nick Mash of 4640 Eastland Ave. stepped to the podium and stated that Mr. Edwards' new driveway and shed looks good, except for the fire hazard. As for getting it into the back, he does construction and he has seen the flooding, he doesn't know how he could get a building back there. Mr. Mash stated that there is no way he could build it up that high to not have it flood.

Discussion was held regarding the flooding and that a building in the front yard setback of 40 ft. from the roadway.

Mr. Mash asked the Board if Mr. Edwards could get a variance for the 40 ft. from the road. Chairman Mucci stated that the zoning is 40 ft. for a permanent structure and he was told a shed is not considered a permanent structure. Discussion followed.

Chairman Mucci stated in regards to the safety with the fire truck and it being 15 ft. minimum, his concern is with the flammable material being stored there. Mr. Mash stated that if he can't have the shed, he would be storing the flammable material in the attached garage. Discussion followed.

Discussion was held regarding the difference between having a hardship or an inconvenience. Interim Zoning Inspector stated that he agrees with the Board, that Mr. Edwards has an inconvenience and not a hardship.

Heather Edwards of 6300 Apple St. stepped to the podium and informed the Board that she doesn't feel like the \$300 fee was explained very well to her parents. Ms. Edwards stated that her parents were told in order to keep the shed there, they had to apply for the variance & pay \$300. They were never told or explained about the hardship. Chairman Mucci explained that earlier in the hearing it was brought up that he doesn't want it in the backyard because it floods and that's a

hardship, there's no other reason. Chairman Mucci stated that when they bought the house they knew it floods. Ms Edwards stated that is incorrect. Discussion followed.

Chairman Mucci informed the audience that the \$300 fee is needed in able to hold this hearing. Discussion followed.

Mr. Aslanides asked if there were any phone calls. Township Secretary Shelby Dieffenbaugher stated there were no phone calls and only 1 letter was received besides the letter provided by Mr. Edwards.

Mr. Jeffries informed the Board that according to an Ohio Supreme Court Case regarding the number of people for or against should not make it a popularity vote. Discussion followed.

Mr. Aslanides asked if he put up the shed himself. Mr. Edwards stated no, he bought it and they delivered it. Discussion followed regarding having a permit.

Chairman Mucci stated that a letter was received from John Southall. Mr. Edwards provide a letter that was signed by John Bishop, John Southall, who also wrote a separate letter, Nick Mash, Anthony Crank, Charles Peterson, and Tim Minster stating they had no objections.

John Bishop of 4661 Eastland Ave. stepped to the podium and asked the Board for the definition of hardship. Mr. Aslanides stated the he can't give an exact definition, but the way he looks at it would be very expensive or hard for him to build it up so far in the backyard. Chairman Mucci stated that a neighbor had his mailbox by his house instead of at the end of his driveway, so he contacted the post office asking if he could move his mailbox too. The post office stated the resident was handicap and it was a hardship for the resident to go to the end of his driveway to get his mail. Discussion followed.

Discussion was held about having the shed put somewhere else in the backyard and the location of the swimming pool. Ms. Edwards stated the pool is right in the middle of the yard so the shed would not meet the 8 ft. setback from the property lines, the back corner of the yard is the only place it could go. Discussion followed.

Chairman Mucci stated the Board hasn't voted yet on it, but he is more likely to approve it closer to the property line in the backyard than having it in the front. Mr. Edwards stated that he can't afford to move it. They have some doctor bills come up that are more pressing. Mr. Edwards stated his wife was diagnosed with lung cancer and if it has to move, he will more likely sell it.

Motion for a Ballot Vote: With no other questions and/or discussion, Chairman Mucci asked for a motion for a ballot vote to approve or disapprove Appeal #625.

PAN ASLANIDES MOTIONED FOR A BALLOT VOTE FOR APPEAL #625 SECONDED BY TONY MUCCI. The Board responded by saying 'I'. MOTION CARRIED.

Roll call voting:	Jim Morris	-- Approve
	Bill Jeffries	-- Denied – safety to backyard; not a hardship; other options to correct
	Pan Aslanides	-- Approve
	Tony Mucci	-- Denied – safety issues; distance from house

Discussion was held regarding what to do when the vote ends in a tie. Chairman Mucci informed the audience that the Board normally has 5 members; however, 1 member is absent, which is why there are only 4 members present. Chairman Mucci stated they will confer with the Stark County

Prosecutor and see what the results will be. Chairman Mucci informed Mr. Edwards that Mr. Fernandez will get back with you and let you know what will happen. Discussion followed.

Old Business:

There was no old business to discuss.

New Business:

Mr. Morris stated they have a problem and should address this to the Trustees, that not enough people in the township know permits are needed. Discussion followed.

Approval of Minutes:

BILL JEFFRIES MOTIONED TO APPROVE THE MINUTES FOR NOVEMBER 1, 2017 AS WRITTEN SECONDED BY TONY MUCCI. The Board responded by saying 'I'. MOTION CARRIED.

Roll call voting:	Jim Morris	--	Approve
	Bill Jeffries	--	Approve
	Pan Aslanides	--	Approve
	Tony Mucci	--	Approve

Adjournment:

PAN ASLANIDES MOTIONED TO ADJOURN AT 7:46 PM SECONDED BY TONY MUCCI. The Board responded by saying 'I'. MOTION CARRIED.

Roll call voting:	Jim Morris	--	Approve
	Bill Jeffries	--	Approve
	Pan Aslanides	--	Approve
	Tony Mucci	--	Approve

Tony Mucci, Chairman
Nimishillen Township Board of Appeals

Pan Aslanides, Member
Nimishillen Township Board of Appeals

/sd

Zoning Board of Appeals Minutes: 2018 – February 7; Accessory Building in side/front yard @ 4641 Eastland