

# Minutes

## Nimishillen Township Board of Zoning Appeals

4422 Maplegrove NE, Louisville, OH 44641

Wednesday, March 7, 2018 – 7:00 PM

**Board Members Present:** Anthony ‘Tony’ Mucci, Chairman  
Pan Aslanides, Vice-Chairman  
Gary Brahler, Secretary  
Bill Jeffries, Member  
Jim Morris, Member

**Interim Zoning Inspector:** Floyd Fernandez

**Township Secretary:** Shelby Dieffenbaugher

**Purpose: (Two Case)**

**Appeal #625** – A continuation of hearing from February 7, 2018; 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.

**Appeal #0671/CZC #757** – Brenda Brown of 7450 Hahn St. NE, Louisville, Ohio 44641, Parcel #33-08070, Zoned R1-Single Family Residential, is requesting a Conditional Zoning Certificate #757 for a Home Occupation to do billing and other necessary paperwork out of her home for a roofing business, subject to Section 702.2 (B) (3), Conditional Uses Subsections 115, A through G of the Nimishillen Township Zoning Resolution.

### **CALL HEARING TO ORDER:**

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”.

### **ORGANIZATION OF THE BOARD OF ZONING APPEALS:**

Chairman Mucci explained to the audience that not everyone was in attendance at the last meeting, so they need to have election of officers and set the date & time for the meetings. Mr. Brahler elected to have Pan as Vice-Chairman, keep Tony as Chairman, and elect himself as Secretary.

### **Election of Officers:**

GARY BRAHLER MOTIONED TO KEEP TONY MUCCI AS CHAIRMAN, ELECT PAN ASLANDIES AS VICE-CHAIRMAN AND GARY BRAHLER AS SECRETARY FOR 2018 SECONDED BY PAN ASLANIDES. With no further discussion, nominations were closed.

### **MOTION CARRIED**

Roll call voting:

Jim Morris	--	Approve
Bill Jeffries	--	Approve
Gary Brahler	--	Approve
Pan Aslanides	--	Approve
Tony Mucci	--	Approve

### **Set day and time for hearings:**

After discussion, the Board decided to keep the day and time the same, which is 1<sup>st</sup> Wednesday of each month at 7 P.M. Board members responded by saying ‘I do’. **MOTION CARRIED.**

**BILL JEFFRIES MOTIONED TO KEEP THE DATE AND TIME THE SAME, WHICH IS THE 1<sup>ST</sup> WEDNESDAY OF THE MONTH AT 7 P.M. SECONDED BY GARY BRAHLER. MOTION CARRIED.**

**Roll call voting:**

Jim Morris	--	Approve
Bill Jeffries	--	Approve
Gary Brahler	--	Approve
Pan Aslanides	--	Approve
Tony Mucci	--	Approve

Chairman Mucci swore in everyone in attendance for a 2nd time 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”.

**Appeal #625** – A continuation of hearing from February 7, 2018; 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.

Chairman Mucci informed the Board and audience they received a letter from Prosecutor Ross A. Rhodes about a tie vote and from preliminary research, a tie vote has no effect, like it didn’t happen. Chairman Mucci stated that is why we are hearing it again.

Chairman Mucci wanted to apologize to Heather from the last meeting. She had asked what a hardship was and he didn’t know. Chairman Mucci stated a hardship is any thing that keeps you from following the zoning regulations that you have no control over, flooding is a hardship, a fence is not a hardship.

**David Edwards of 4641 Eastland Ave.** stepped to the podium and asked to the Board for a variance for a shed. Mr. Edwards forgot to say at the last time that there was already a shed there, just replaced it. Mr. Edwards stated that his backyard is in a flood zone and he wasn’t told about the hardship. Chairman Mucci explained that hardship is a term for a reason and your reason is because of flooding, so it’s a usage hardship. That is really why you get a variance because of a reason beyond your control you cannot follow zoning.

Mr. Edwards stated to the Board regarding their concerns from the last hearing about the placement of the shed hindering the Fire Department getting to the back of the house, he showed them pictures of the side yard. Chairman Mucci stated that another concern is the things that are normally stored in a shed could set the house on fire, that’s why the minimum is 15 ft from the home. Mr. Edwards stated that it is under the 15 ft. from the house but it is more than 4 ft. It is 9 ft.

Chairman Mucci stated that he went out to look at his property the last heavy rains on February 24 and saw a little standing water. Discussion was held regarding where a shed could be placed in the backyard.

Mr. Brahler asked what happens to the swimming pool during the flooding. Mr. Edwards stated it flooded. Chairman Mucci stated that he didn't move the pool because it flooded. Mr. Edwards stated it's an in-ground pool and that he can't move it. Discussion followed.

**Debbie Edwards of 4641 Eastland Ave.** stepped to the podium and informed the Board that when the pool was put in, it was not a known flood zone. Mrs. Edwards stated to the Board that why would they put a shed back there and have it flooded 4 ft. high when it does flood. Mrs. Edwards stated the it doesn't flood every summer.

Discussion was held regarding the swimming pool. Mrs. Edwards informed the Board that she loves the pool and don't want to move it and that doesn't mean they will put additional stuff back there to get ruined. Discussion followed.

Mrs. Edwards informed the Board that whatever is stored in the shed that could catch fire was in their attached garage. So, if it will catch fire in there vs. the shed, she doesn't see much of a difference.

Discussion was held regarding the flood zone, the zoning book, and other sheds their neighbors have.

Mrs. Edwards asked the Board about being contacted by people from the advertisement in the paper and from the sign. Mrs. Edwards stated she is confused because all of the neighbors have sign off on it. Chairman Mucci stated that the neighbors that spoke last time they are not taking into consideration, they are pretending that meeting didn't happen. The Board appreciates the neighbors coming out and giving their input. Discussion followed.

Mr. Jeffries explains to Mr. Edwards that he should have been aware or done his due diligence that the area is in a flood zone. Mr. Jeffries explained that none of his neighbors' sheds are in the front yards and that he is concerned with fire/paramedic access to the backyard. It does not provide enough room for emergency personnel. Mr. Jeffries stated that according to the Supreme Court, the Board cannot make this hearing a popularity contest and they are only here to look at zoning and how it is affected. Mr. Jeffries stated it is important to have support from the neighbors but it is not a strong factor in the Board's decision making. Mr. Jeffries stated to Mr. Edwards that he is asking the Board for forgiveness because he didn't get a permit for the shed and he should have known a permit was needed because of the pool. Mr. Jeffries explained to Mr. Edwards that he has a practical difficulty and not a hardship because it can be corrected and the only reason he doesn't want to correct it is because he didn't do his due diligence up front. Much discussion followed.

Chairman Mucci asked if anyone in attendance would like to speak for the variance. A resident is the audience stated that the Board said their opinion doesn't matter, which is terrible.

**Sarah Edwards of 4641 Eastland Ave.** stepped to the podium and informed the Board that she understands what the Board is saying about putting it in the backyard, but the last 2 times it flooded the water was up to her waist. Ms. Edwards expressed her concern to the Board about building it up in the backyard for the shed that high is a safety hazard. Discussion followed.

Discussion was held regarding the neighbors' shed and the swimming pool. Chairman Mucci asked if anyone else had any questions or remarks.

Chairman Mucci stated a letter dated February 28, 2018, signed by Tim & Cynthia Minster, was received and entered into evidence as Exhibit A. Mr. & Mrs. Minster asked the Board to approve the variance.

Mr. Morris stated that looking back at past hearings, the Board has approved sheds closer than 15 ft. Mr. Aslanides stated that just because the Board passes one doesn't mean they will another one. Discussion followed.

***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 – owner before purchase, emergency access, safety, practical difficulty-not hardship
	Gary Brahler	-- Denied – Doesn't meet zoning regulations
	Pan Aslanides	-- Approve
	Tony Mucci	-- Denied – too close to house, can be moved to rear property

Chairman Mucci said **the request for Appeal #625** was **DENIED**.

Mrs. Edwards asked the Board about the appeal process and how long they have to move the shed. Interim Zoning Inspector Floyd Fernandez asked Mrs. Edwards to call him at the office, he will work with them.

**Appeal #0671/CZC #757** – Brenda Brown of 7450 Hahn St. NE, Louisville, Ohio 44641, Parcel #33-08070, Zoned R1-Single Family Residential, is requesting a Conditional Zoning Certificate #757 for a Home Occupation to do billing and other necessary paperwork out of her home for a roofing business, subject to Section 702.2 (B) (3), Conditional Uses Subsections 115, A through G of the Nimishillen Township Zoning Resolution.

**Brenda Brown of 7450 Hahn St.** stepped to the podium and informed the Board that all she does is the books and receives mail in her home. No one comes to the house. Ms. Brown stated she moved 2 houses down and she had it at her other house.

Chairman Mucci asked if the office was in the extremely large building in the back. Ms. Brown stated no that's her barn, she has a zoning permit for it, and it is agricultural so there is no size limit. Chairman Mucci asked if she has more than 13 acres. Ms. Brown stated that yes she has 23 acres.

Mr. Brahler asked if she will have a sign in the front yard. Ms. Brown said no, she only gets mail and does the books.

Mr. Aslanides asked if she came here 8-10 years ago for the same thing. Ms. Brown stated she had to reapply because she moved 2 houses down. Ms. Brown stated no one comes to the house, the

only people that do are for audits. Mr. Aslanides stated nothing is stored at the property and only paperwork is done. Ms. Brown stated yes, just paperwork.

Interim Zoning Inspector Floyd Fernandez asked Ms. Brown what will be stored in the building. Farm equipment? Shingles for the business? Ms. Brown stated no, nothing is in it yet and it will have electric. Chairman Mucci stated to Ms. Brown that it is very commendable that she came here and are trying to follow the rules. Ms. Brown stated they have a 9,000 sq. ft. building they rent and a 6,600 sq. ft. building in Alliance with a variance to store only material. Ms. Brown informed they Board they are welcome to visit both. Ms. Brown stated the barn is for her horses and the reason it is so high is to store hay. She also has various types of tractors, a log splitter, rototiller, would like to have some chickens, and wants to put in a greenhouse to grow her own food.

Chairman Mucci asked if anyone had any questions. Mr. Morris asked if the large pickup trucks with the ladders are normally just for transportation or are they the start of storing roofing materials. Ms. Brown stated they are still building, they are not done with the building yet and that he drives his pickup truck home.

Chairman Mucci asked if anyone in attendance would like to speak for the variance.

**Bill Musiol of 7451 Hahn St.** stepped to the podium and informed the Board he is the son-in-law of Bob & Sandy Bryan and is speaking on their behalf. Mr. Musiol said they have some concerns about what will happen if they start seeing roofing material and trucks at the house. Chairman Mucci stated if they start to see that happening, they can call the Township Zoning Inspector and that the CZC would not be renewed the next year. After much discussion, Mr. Musiol stated he is okay with it and has no problem with the book keeping.

**Rodney Brown of 7450 Hahn St.** stepped to the podium and informed the Board that Ms. Brown did get a variance before in approx. 2006 for her house and there was never anything there but his roofing truck that was parked there. All of the equipment came on site to roof the house when she sold the home. Everything is stored at other buildings in Alliance. Mr. Brown stated the only thing at the property right now is a large dump truck he uses to move dirt in order to build the barn. Mr. Brown explained to the Board that across the street he cleaned all of the brush on that property, put in a new fence line, rebuilt the creek and purchased \$4,000 worth of pipe to put in to help the creek. Mr. Brown informed the Board that he had a variance for his home he used to live at on Maplegrove for a larger building to store his old cars in. No one complained and he was there 8 years. Mr. Brown explained that he doesn't want to bring the roofing trucks home. He will bring his roofing truck home and that is it. The barn they are building will not fill all that they have for it and he already has plans for additions. They don't want anything to sit outside. Mr. Brown informed the Board there will be concrete trucks there soon. Discussion followed.

**Chris Jones of 7890 Ravenna Ave.** stepped to the podium and informed the Board that she used to live in Massillon and that her kids attended many zoning meetings. Ms. Jones stated she really enjoyed tonight's meeting. Ms. Jones expressed that the barn she is building looks beautiful and felt the Board did a great job with the meeting.

**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 #0671/CZC #757.

*PAN ASLANIDES MOTIONED FOR A BALLOT VOTE FOR APPEAL #0671/CZC #757 SECONDED BY TONY MUCCI. The Board responded by saying 'I'. MOTION CARRIED.*

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

Chairman Mucci said **the request for Appeal #0671/CZC#757** was **APPROVED** and advised Ms. Brown to contact Floyd during regular office hours to make arrangements to get whatever paperwork/permits are needed.

**Old Business:**

There was no old business to discuss.

**New Business:**

The Board asked if there was anything for next month. Township Secretary Shelby Dieffenbaugher stated nothing they are aware of.

Mr. Aslanides asked Interim Zoning Inspector Floyd Fernandez if he is not putting the signs in the yards anymore. Mr. Fernandez stated no he is not because they are too heavy and there ugly. Mr. Fernandez asked if there was a reason he want the signs up. Mr. Aslanides said he liked them up because some of the properties are difficult to find. After much discussion, the Board motioned to say to the Trustees that the Board does want the signs.

*GARY BRAHLER MOTIONED TO SAY TO THE TRUSTEES THAT WE DO WANT TO SIGNS SECONDED BY PAN ASLANIDES. The Board responded by saying 'I'. MOTION CARRIED.*

Roll call voting:	Jim Morris	--	Yes
	Bill Jeffries	--	Yes
	Gary Brahler	--	Yes
	Pan Aslanides	--	Yes
	Tony Mucci	--	Yes

Discussion was held regarding non-transferable permits and transferable permits.

**Approval of Minutes:**

*BILL JEFFRIES MOTIONED TO APPROVE THE MINUTES FOR FEBRUARY 7, 2018 AS WRITTEN SECONDED BY TONY MUCCI. The Board responded by saying 'I'. MOTION CARRIED.*

Roll call voting:	Jim Morris	--	Approve
	Bill Jeffries	--	Approve
	Gary Brahler	--	No Vote
	Pan Aslanides	--	Approve
	Tony Mucci	--	Approve

**Adjournment:**

*PAN ASLANIDES MOTIONED TO ADJOURN AT 8:06 PM SECONDED BY TONY MUCCI.  
The Board responded by saying 'I'. MOTION CARRIED.*

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

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Tony Mucci, Chairman  
Nimishillen Township Board of Appeals

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Pan Aslanides, Vice-Chairman  
Nimishillen Township Board of Appeals

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*Zoning Board of Appeals Minutes: 2018 – March 7; Accessory Building in side/front yard @ 4641 Eastland & Home Business 7450 Hahn*