

Draft

**HUNTINGTON TOWNSHIP ZONING BOARD OF APPEALS
45955 STATE ROUTE 162 WELLINGTON OHIO 44090**

March 22, 2023

MEETING: The Zoning Board of Appeals held a special scheduled public meeting on March 22, 2023 called to order by Dan Goble with the Pledge of Allegiance at 7:00 P.M. at the Huntington Township Hall.

IN ATTENDANCE: Paul Dria, Dan Goble, Jonathon Traut, Doloris O'Connor, Carl Strekely, Zoning Inspector Nora Klebow, Secretary Sheila Lanning, Michael Hozan, Walter Rollin, Mike Hozan and Jill Fox.

Chairman Goble: "Will the Secretary please call the roll."

Roll call: Dan Goble= yes, Paul Dria= yes, Jon Traut= yes, Doloris O'Connor= yes, Carl Strekely= yes.

Chairman Goble: "Five members are present. A minimum of three is required for a quorum."

Chairman Goble: "The minutes of the previous meetings have been distributed prior to this meeting. Are there any corrections to the minutes? The Chair recognizes a motion to accept the minutes as distributed"

Motion by Dria and a second by Strekely to accept the minutes as distributed.

Roll call vote: Dan Goble= yes, Paul Dria= yes, Jon Traut= yes, Doloris O'Connor= yes, Carl Strekely= yes.

Chair: "There were five yes votes and zero no votes. The minutes are approved as distributed"

UNFINISHED BUSINESS:

Chairman Goble: "With members present, is there any unfinished business?"

"With there being no unfinished business, next item, New Business."

NEW BUSINESS:

Chairman Goble: "Will the Secretary read the agenda for the Zoning Board of Appeals."

Secretary: Variance application from Jill Fox 27450 Clark Road submitted by Michael Hozan.

Chairman Goble: "To those of you present at this meeting, the burden of proof is upon the applicant. Applicants here today have a right to have an attorney present. I will now give the oath to all individuals who intend to give testimony, introduce documents, or provide comments. All individuals please stand and raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?"

All answer I Do.

Chairman Goble: The reason for the variance request is multifaceted, the Zoning Resolution sections under consideration are Section 4.1, Section 6.9.3 and Section 7.15. I will just highlight each section: How does the strict application of the provisions of the resolution result in practical difficulties or unnecessary hardship inconsistent with the general purpose of this resolution. Applicant written answer read aloud by Chairman Goble: Two family dwellings are allowed however the proposed barn build would be considered an accessory building because it does not share an adjacent wall with the principle home. Seeking a temporary variance in zoning for mother-in-law Jill Fox to

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remain living on the property. This affects section 6.9.3. Chairman Goble: What exceptional circumstances or conditions apply to this property that do not generally to others in the same district. Applicant written answer read aloud by Chairman Goble: ...The occupancy of Jill Fox in a properly permitted/zoned accessory building will not impede the Zoning. The variance is for temporary period of time, the additional dwelling will not be used for income or occupancy of future individuals or families. This request is only for the duration of the life of Jill Fox. Chairman Goble: Why granting the variance will not be detrimental to public interest or property or improvements and will not materially impair the purpose of the Resolution. Applicant written answer read aloud by Chairman Goble: The property will have properly permitted septic, plumbing and electricity. Upon the death of Jill Fox this property will revert back to its properly zoned use of an accessory building. No further occupancy will be requested. Also request variance to allow less than 1400 square feet living space as defined in section 7.15 because this is for a limited time, only for a single occupant, space will never be zoned dwelling for a family or other occupant, upon Jill's death or any future sale of this property, this space will remit to accessory building status. Based upon the fact that legal dwelling will not be transferrable, there will be no detriment to adjacent properties. Chairman Goble: page 6 and 7 shows the location of the proposed building and an image.

Chairman Goble: "I now call for abstentions by any board member who has a conflict of interest pertaining to this specific matter before the board. No Board members have abstained. The Chair recognizes the Township Zoning Inspector for remarks that may expand or clarify an application before the board at this time."

Zoning Inspector Klebow: Mr. Hozan asked about the zoning restrictions, gave him the applicable sections. He has addressed the zoning restrictions very well and completely. Very well-presented application, if the Board chooses to approve this variance I suggest they put a stipulation on it that it does not carry with any property transfer.

Chairman Goble: "The applicant may now present their case which includes your present position, arguments, contentions, witnesses, or exhibits."

Mr. Hozan: Introduced Jill Fox and provided a little history. Mrs. Fox is recent widow and only daughter and son in law are not care takers. Came up with plan to build accessory building and put a little apartment within so Mrs. Fox can be close to family. Zoning makes sense and totally understand the reasons, appreciate this meeting to discuss exceptions like this. If we sell in future it will have use as an accessory building.

Chairman Goble: "The board members may now direct questions and comments to Mr. Hozan or Ms. Fox"

Strekely: What is the purpose of the yellow line on the pictures of the property supplied. Hozan: These are separate parcels, the frontage, neither parcel can exist independently. So they are co-dependent upon each other and could not sell one without the other anymore. Strekely: at one point it was a property line. Klebow: it still is. O'Connor:

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There is two parcels there. Hozan: together they make up 484 feet, individually they are not able to exist independently. Traut: is that accurate or were they split soon enough that they were able to be separate. Klebow: they were separate before 2003, when the increase in frontage footage was adopted so they are grandfathered. Goble: Is it 2003 or when the original Zoning Resolution was adopted. Klebow: They would be buildable separately, but if you choose to put something on the property line. Goble: They would technically not be built separately because same person owns two properties. Traut: except when two houses. Goble: You own both adjoining properties, if it was a single parcel and you didn't own adjoining properties I believe you could but now it is non-conforming because you owned both at the time the resolution was adopted. Before hand with the frontage, if you only owned, if you had a sliver between the two than they would be two nonconforming lots but they would both be buildable. But with a single owner owning both two I believe it becomes. Traut: the lots I own on Bursley are all buildable. Klebow: I think they are each buildable because they existed before 2003. Goble: I saw somewhere that adjoining lots that are non-conforming that it does something. Strekely: the 2023 plat book at the county lists this as one parcel around 30 acres. Klebow: the house is on one parcel. Goble: I think the Auditor's web site might combine a transaction into one. Hozan: The Auditor's website says "and" between them. Strekely: there is more of a question of the footage to the property line. Goble: that is the question I asked Nora, it doesn't technically specify in our Zoning that if you own two adjoining properties that you can build on the property line. Klebow: but if they own both properties, I think you should be able to. Goble: but it doesn't say in there. Klebow: but it doesn't say that you can't. Goble: but it implies no. Klebow: Under Ohio law if it is not specific, it doesn't exist. I learned this in January. Strekely: the accessory building has a loft in it, is that to be the living area. Hozan: plan is to, because the walls are so high we would frame that out as a loft and under there would be 8-foot ceilings for her. We could run the HVAC and electrical up top. Rather than apartment with 18-foot ceilings. Goble: how many square feet is this living area, it is not in the application. Hozan: 800+ square feet. Goble: 1400 square feet is our minimum Hozan: my second point is whether it made sense to move there. That is regarding section 7.15 minimum living space. If we needed to we would include the loft as living space to make the minimum living area. Due to the fact that we were going for a temporary thing that would never be sold again as a dwelling. And she is a single person who is going to be living on the first floor, it didn't make a lot of sense to build a big 1400 square foot unit. I am not going to live and die on that hill, but to me it didn't make a lot of sense. I would be for one person ever and never sold again as a dwelling it doesn't make a lot of sense to us. Strekely: works out to about 832 square feet. Dria: a septic system for that, what is the house rated at for the septic system. Hozan: Our current system is 500 gallons per day, or I think 4 bedrooms it may be 5. Goble: the septic system is rated for 5. Hozan: We currently live in a 2-bedroom 2 bath household. Dria: you are going to use the existing tank and the Lorain County sanitation is ok with this? Hozan: they got soil samples Monday, we are in the process right now. I am working with the guy, doesn't seem to be an issue. At a weird spot where I am waiting on approval with Zoning, and then they will probably grant that final approval. Goble: what is the practical and necessary hardships on this parcel for a use variance. Hozan: if we make adjacent walls and sharing the structure, we end up with a weird thing for the useful life of this structure.

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I plan on living here for 60 years till I die. For the vast amount of time on this property that dwelling will not be used as a dwelling. It seems tough to make it a dwelling for a short period of time and we are left with this huge barn touching our house that doesn't lay with the house. We tried to lay it with the house as far as the foundation and it doesn't lay with the pond and we would have to bring in large amounts of dirt. That is why it needs up where it is. Goble: there is no other way this can be done without building an 80 x 60 barn with 18-foot ceilings to house somebody. No other option, you have exhausted all options to make this possible. Hozan: We buy a house somewhere else and she doesn't get to live on the property. She is managing another property right now and taking on another property would be like kicking the can down the road. If we make the house a two-family dwelling we run into the first problem where in 15 or 20 years we have a two-family home for one family. We thought about those other options and we were hoping to pursue this route. Goble: Making changes on the house, no changes period, you have exhausted every other possibility and the only solution is to build a separate building and request a use variance. This parcel is so unique, nothing around it in the property, no one of your neighbors has the situation of your property. Hozan: I don't think it is unique in that way, we are trying to think of a way to take care of her as she gets older and a way to promote independence and have her live with us. Traut: The general concept is ideal to keep the family, the unit, the whole which sounds great. Unfortunately, this Board has been taken advantage of in the past by more than one individual. We say well ok, temporary but than it takes years to undo and now you've got tenants. I go along with all that but I feel that someday down the line someone will come up here and say: it's been like that for 20 years. Hozan: any way in writing that you feel would do that. We said upon transfer, is there any way you feel that would cinch that down. I am open to something like that. O'Connor: I have the same concern, I have a 2500 square foot home and a detached game room. I could say, I am going to live in the game room and my daughter is going to live in my house. Goble: outside of that in my opinion, this hardship is being created based upon personal circumstance not the property. The property is not creating the circumstance for the person, the person is creating the circumstance for the property. It's basically a hardship that is self-created upon this property. With this property not being any different than any properties in RA district that makes it so unique that you have to build a building 80 x 56 to put an apartment in with living quarters because there is no other solution. Traut: would you still build an accessory building at some point. Hozan: our goal is you are still left with an accessory building. Any other way to go about it to make a two-family dwelling, then we're left with an empty wing on our house. This way we are left with a barn and it will have value in it whereas not a lot of people will find value in a weird wing on your house or a two-family dwelling. Goble: Circle back to Duncan versus Middlefield, whether the property owner's predicament can be easily be prevented through some other method other than a variance. What exceptional circumstance or condition applies, how is that being met. Hozan: my answer is the same, we would be left with an issue. Lanning: there is a mother in law wing on property on Route 162 that is an example. They built a wing on the home and now the mother in law is moving out and he will have an empty wing on his home. This young man is trying to avoid that because he can use the building for equipment, mower etc. when it is no longer a living quarter. He has done everything properly and I see his point about the empty wing.

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Goble: I understand that but than the building will become an empty wing so you will have an apartment that will become empty, no different that if it were attached to the home. Lanning: the rest of the building will be used for other means and remain useful similar to a barn dominium. Goble: but you don't have to build a duplex to accommodate living standards, you have to go through from the bottom up: there could be no change, there could be a duplex, there could be an in-law suite all but to a barn. So basically, gets back to our revised code 5.19.14 a literal enforcement of the resolution will result in a hardship and the only way to accommodate this is through a variance. Mike Hozan: going through this with mother in law, dignity and independence of living alone is great. I don't think the intent of the regulations was to take people in their golden years and force them out of the community. If this is written legally, upon Jill's passing the building will no longer be used as a residence. He has been very honest and open about these plans and willing to accommodate. There are different people in the world and there are bad people but he is upfront and honest and will not take advantage of this. Traut: what else have we heard from the neighbors. Klebow: Walt is a neighbor and he is here, it would be great for him to speak. Rollin: no problem with it but down the line, what is the next owner going to do with property. Klebow: if there is a building on it than no it can not be split. Rollin: If they build it, will it have the same address for safety services. You have to have one drive for every address. Is it going to have separate water or electric? The septic will be shared. Hozan: the water will come off the primary and the electric pole. Rollin: just saying that some time down the line, you never know what's going to happen. Hozan: that is why it is important to have that in the transfer. Rollin: I think it should be addressed in the variance. Goble: in addition to changing the zoning and how the zoning works, we have someone babysitting someone's address. Do we pull mailboxes, make the address invalid? Hozan: I am not sure about the address thing. Goble: two dwellings need two separate addresses. Traut: duplex has two separate addresses. Dria: with two separate addresses you should have separate water, electric, sewer. Hozan: duplex has the same water. Klebow: there is nothing in the zoning that stipulates that. Goble: they have to have separate drives unless they are on the same parcel. Mike Hozan: this is a barn that for a finite amount of time it will be a dwelling. In the long run it is still one water, electric, address. The Zoning is not changing, we are just asking for an appeal of the existing law. Hozan: there are two ways to look at this: an accessory building that will be used temporarily to live in or are we asking to build two principal dwellings. We are asking if someone can temporarily reside in an accessory building. The principal building will remain the house. Traut: any of this visible from the road. Hozan: no, there is a river and trees in the way. Goble: the use variance must demonstrate that the hardship exists only on this property. There is unique physical circumstances or conditions that apply to this property in question. It could be shape of the lot, topology that because of physical circumstances there is no possibility that the property can be developed in strict conformity of the provisions of the zoning resolution. Without doing this the owners can't use the property in the same manner as somebody else. Without putting this separate building on, you would not be able to use it like anyone else would, based upon all the stipulations. The owner can not impose a hardship upon themselves. Hozan: the use variance and what was the other variance. Klebow: the area variance is for the substandard size of the dwelling unit but primarily this is a use variance. Rollin: would it be easier to make house addition with

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attached walls. Add to the square foot of the house, would not need to mess with the septic, water, electric. O'Connor: you sure you don't need a separate sewer. Hozan: might have to upgrade the system. The size of the tank is big enough to add one bedroom.

Chairman Goble: "You may now present any rebuttal to the evidence presented to you."
Hozan: I respect all the rules and regulations, I don't think this temporary small unit impedes on any of them.

Chairman Goble: "You may now present your closing argument."
Hozan: that was it. Strekely: is there some way to put in this zoning variance in the changing of property owners as to the living area. Klebow: that was my suggestion
Hozan: we are in the process of purchasing the property, we could make that our goal
Klebow: assuming that transfer is going to happen, put the notation in the deed including the limitation. Traut: I have something like that on some of my properties
Klebow: we would not have to monitor it than. It would be the real estate transaction and alleviate the need to monitor. Lanning: it would be in the conveyance documents. Traut: are we voting on something that has a conditional or what is in here. Klebow: it could be a stipulation to the variance that the use of the accessory building not include a dwelling. Traut: how would that be written in or monitored. Klebow: if transfer is imminent we have an institutional memory, if it is in the deed we don't have to worry. Dria: we are voting on something now that she owns and could be different when he gets it. Shouldn't we wait till after the transfer. O'Connor: it would be a step easier. Traut: they are trying to figure out what they can do now. Hozan: has drastic impacts on her future living and ours. We are trying to do it in the right order.

Chairman Goble: "This hearing is complete. Will the Secretary poll the members to register their individual yes or no vote on the issue before them?"
Roll call vote: Dan Goble= no, Paul Dria= no, Jon Traut= yes, Doloris O'Connor= yes, Carl Strekely= no.

Chairman Goble: "There were two yes votes and three no votes." The variance application has been denied.

ADJOURNMENT:

Chairman Goble: "If there is no further business, a motion for adjournment is now in order." *Motion* by- Dria and a second by Strekely to adjourn.

Chairman Goble: "Will the Secretary poll the members to register their individual yes or no vote on the motion to adjourn."

Roll call vote: Dan Goble= yes, Paul Dria= yes, Jon Traut= yes, Doloris O'Connor= yes, Carl Strekely= yes.

Chairman Goble: "There were five yes votes and zero no votes." The motion to adjourn is approved."

Chairman Goble: "The meeting is adjourned at 7:51 PM. So ordered."

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Signed: _____
Chairperson

Attest: _____
Secretary