

**BRIMFIELD TOWNSHIP BOARD OF ZONING APPEALS**

**MEETING MINUTES of June 17, 2020**

Virtual Meeting via Zoom due to COVID-19 Guidelines – 7 p.m.

**Present:** Scot Etling, Ed Shutty Sean Phillips Bruce Knippenberg  
Vince Murdocco

**Alternates:** Clayton Popik William Kremer

**Staff:** Michael Hlad, Economic Development Director and Zoning Inspector  
Jendy Miller, Zoning Secretary

**Also in Attendance:** Mark Guidetti LPA– Brimfield Township Legal Consultant  
Nic Coia – Brimfield Township Trustee  
Brian Gardner – Brimfield Township IT Director

**CALL TO ORDER:**

The Brimfield Township Board of Zoning Appeals meeting was called to order by **Chairman Bruce Knippenberg** at 7:00 PM on Wednesday, June 17, 2020.

**ROLL CALL:**

**Etling = Present Knippenberg = Present Murdocco = Present**  
**Phillips = Present Shutty = Present**  
**Alternates: Popik = Present Kremer = Present**

**Visitors Present via Zoom:**

**Kevin Herring**  
**John Falatok**  
**Brent Artman**  
**Konstantin Verni**  
**Mike Wohlwend**  
**Danny Karam**  
**Nick Parianos**  
**Jim Parianos**

**Chairman Bruce Knippenberg** swore in those visitors who will be speaking at the hearing.  
**Zoning Secretary Jendy Miller** requested a motion to amend the agenda removing Plaso Properties Variance Application as he no longer needs it.  
Jendy Miller will read emails received regarding Omni/Delta and Walden Pointe applications when application is presented.

**MOTION #2020-018**

**Vince Murdocco made motion to amend agenda, Scot Etling** second, all in favor, motion passed, amended agenda accepted.

**APPLICATIONS:**

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**Zoning Conditional Use Application:**

Applicant: Tallmadge Prospect, LLC – Tom Falahauk  
Owner: Tallmadge Prospect, LLC  
Address: 1154 Tallmadge Rd, Kent, OH 44240  
Parcel: 04-041-00-00-055-000 Zoned: T-C

Conditional Use Request: Applicant wants to split lot which will create a flag-shaped parcel  
**Resolution 400.10 B 47: Conditional Use Special Requirements – Flag Shaped Lots.** All conditional use requests must come before the Board of Zoning Appeals for approval. Mike Hlad stated that flag shaped lot is for future use. The lot conforms to zoning but flag shaped lots must come before BZA per resolution. Mr. Falatok is planning future commercial development on said lot. He stated that the Conditional Use for a flag shaped lot allows him to get multiple banks to finance whatever projects he plans for the future. Mike Hlad stated that any future development would still need to be approved at a later date by Zoning Department.

#### **MOTION #2020-019**

**Vince Murdocco** made motion to accept the Conditional Use for the flag shaped lot, **Sean Phillips** second, all in favor, motion passed.

#### **Zoning Conditional Use Application:**

Applicant: Delta Builders-

Owner: Omni Brimfield, LLC

Address: Overlook Condominiums at Pleasant Lakes, Kent, OH 44240

Parcel: 04-021-20-00-004-000 Zoned: R-4

Conditional Use Request: Applicant's previously approved Conditional Use Permit expired per **Resolution Section 200.09 A & B.** Applicant requesting to complete development with 5 units off Chauncey Lane and 20 additional units on Ledge Court. Applicant has submitted new request for Conditional Use Permit as required.

Zoning Secretary Jendy Miller read into the record 11 emails from current residents residing in Pleasant Lakes opposing the Conditional Use and Variance requests. Most opposed the number of homes/condos requesting to be built as well as the setback variances especially between houses. Concerns were that the area was already over crowded, lack of parking areas, increased traffic will affect the condition of the private roads that the homeowners have had to pay to have re-paved recently. Homeowners upset that the new homeowners would not be part of the current HOA. Concern also raised that by clustering the homes so close together, the value of their properties would be impacted. Those emails are attached.

Mike Hlad stated that if the BZA grants the Conditional Use, they are granting it based on Brimfield Township's Zoning Resolutions today, not what was in the past. The granting of the Conditional Use does not include any variances that are needed to conform to today's zoning resolutions and requirements. Scot Etling asked if the reason they needed the Conditional Use was because there hasn't been any construction for over two years in that development and they want to now build. Mike Hlad stated that is true. Brent Artman was present for Delta Builders. Bruce Knippenberg asked if his understanding is that the Conditional Use is under the same guidelines as the original Conditional Use Permit. Brent explained that the original development was approved for 57 units. States that they are not increasing density and that the change in zoning changed what the original setbacks were. Brent also stated he has spoken with BFD and they are fine with 15 ft separation. Brent states they are only asking for what was approved originally. Brimfield Township has no recorded documentation outlining the original setbacks and building separations for that development. Bruce Knippenberg asked about private road maintenance to which Brent stated he would have to defer to the developer, Konstantin Verni who stated he did reach out to the Property Manager, Gary Lemon, several times but has not heard back from him. Konstantin stated he intended to join the current HOA and reached out to the HOA president who told him that the new residents could not join the current HOA, and in order to join the HOA, the requirement is that 100% approval of the current HOA members is needed. Bruce Knippenberg asked Konstantin if his intention is to join the current HOA, Konstantin stated yes, depending on the "terms" but that is his plan.

Bruce Knippenberg asked if Jendy or Mike had heard from anyone with the HOA or management company of the development and both stated they had not. Bruce is concerned that per the emails, residents are under the impression that the developer refused to join the HOA, while the developer states he was told he wasn't able to join.

Konstantin said the plan is to stay close to the type of condos that are currently there but that the footprint and plans are dependent on what the BZA allows. Brent stated the value of the condos will be between \$200,000.00 and \$250,000.00. Scot Etling asked if the proposed lot sizes are the same as what is there not, Konstantin stated yes.

Konstantin stated the plans the BZA members have are not the ones they emailed to Jendy days ago. Jendy stated she didn't receive those but will look further into it as the ones needed are ones that are highlighted. Brent stated the plans are not the ones they submitted.

Scot Etling states that there is a real disconnect between the current residents and the developer, that the residents seem to have been told one thing while the developer is stating something else. Konstantin states that the homes will bring higher value due to the interior designs. Scot stated that it fine if you are inside but the residents have issues with the outside homes being "on top of each other". Konstantin states that they do not want to build cluster homes and if they go by the current setbacks, the houses will look odd and not be consistent with what is there now. Discussion continued about the disconnect between the developer and the current residents.

Mike Hlad made a recommendation that due to the issues of plan submittal, HOA issue, what the homes will look like, for the BZA to table the Conditional Use and Variances until things can be sorted out. It came to light that the management company is GL Management, Gary Lemon. Vince Murdocco knows him. Bruce suggested that the BZA order the management company and HOA president to appear at next month's BZA hearing. Vince Murdocco said he will contact him. Discussion continued.

#### **MOTION #2020-020**

**Vince Murdocco** made a motion to table the Omni Conditional Use and Variance applications until next month, July 15, 2020. **Scot second**, all in favor, motion passed.

Stated that the HOA president and Management Company, Gary Lemon must be present.

#### **Zoning Variance Application:**

Applicant: Delta Builders

Owner: Omni Brimfield, LLC

Address: Overlook Condominiums at Pleasant Lakes, Kent, OH 44240

Parcel: 04-021-20-00-004-000 Zoned: R-4

Variance Request: Requesting Variance for front setback from 50 feet per **Resolution Section 400.10 B56-L4** to 36 feet front setback. Variance of 14 feet requested.

#### **MOTION #2020-021**

**Scot Etling** made motion to table until July 15, 2020 BZA Hearing. **Vince Murdocco** second, all in favor, motion passed.

#### **Zoning Variance Application:**

Applicant: Delta Builders

Owner: Omni Brimfield, LLC

Address: Overlook Condominiums at Pleasant Lakes, Kent, OH 44240

Parcel: 04-021-20-00-004-000 Zoned: R-4

Variance Request: Requesting Variance for building separation from 35 feet per **Resolution Section 400.10 B56-L5** to 15 feet building separation. Variance of 20 feet requested.

#### **MOTION #2020-022**

**Vince Murdocco** made motion to table until July 15, 2020 BZA Hearing. **Ed Shutty** second, all in favor, motion passed

#### **Zoning Conditional Use Application:**

Applicant: Walden Pointe LLC

Owner: Pride one Cline, LLC

Address: Walden Drive, Kent, OH 44240

Parcel: 04-008-20-00-024-000 Zoned: R-3

Conditional Use Request: Applicant's previously approved Conditional Use Permit expired per **Resolution Section 200.09 A & B**. Applicant requesting to complete development. Applicant has submitted new request for Conditional Use Permit as required.

Zoning Secretary Jendy Miller read into the record 19 emails from current residents residing in and around Walden Pointe. All emails requested that the Conditional Use and Variance be denied. Residents and neighbors voiced concern over the number of homes being proposed as well as the building separation. Most all stated the increased traffic would cause a huge problem in the development as well onto Meloy Road and that because there is only one entrance and exit into Walden Pointe, any further development would create huge safety issue for fire especially. Many also voiced concern over lower property values, a desire to limit more housing developments in Brimfield, road preservation and that the proposed homes would not be harmonious with the current development.

Mike Hlad stated that Cranberry Creek development is 20 feet separation. Application submitted to zoning had owner as Pride One. Per Danny Karam of Karam and Petros, Pride Once is no longer the owner even though Portage County Auditor shows Pride one. Mike Wohlwend spoke on Conditional Use, no building since 2007. Mike Wohlwend states this is just a reapproval of an earlier Conditional Use Permit. Mike Wohlwend states that Portage County approved the plot plan back in 2004. The current plan requests 51 additional units. Bruce asked Mike Wohlwend what would happen if the variance wasn't approved and he stated that it would be going back and starting over to see if it even would be beneficial to proceed. Zoning Department does not have record of the original building separation. Bruce and Scot want to know what the current separation is, as well as what the Fire Chief has to say. Mike Hlad stated BFD didn't have a problem with it as long as they go by the Portage County Engineer's approval. Mike Wohlwend states that original plans did not show any setback or separation. Discussion continued regarding 15 building separation. Mike Hlad was able to pull up original Walden Pointe plans that showed setback of 35 feet and lots 76 feet wide, which are much larger lots than is proposed. Bruce asked Mike Hlad if they approved the Conditional Use, what would the separation and setbacks be. Mike Hlad stated that they would be permitting a Conditional Use with today's Zoning Resolutions/Regulations and would be with a 35 ft separation.

#### **MOTION #2020-023**

**Bill Kremer** made a motion to approve the Conditional Use Permit based on the current Zoning Regulations, **Scot Etling** second, all in favor, motion passed.

#### **Zoning Variance Application:**

Applicant: Walden Pointe LLC

Owner: Pride one Cline, LLC

Address: Walden Drive, Kent, OH 44240

Parcel: Parcel: 04-008-20-00-024-000 Zoned: R-3

Variance Request Requesting Variance for building separation from 35 feet per **Resolution Section 400.10 B56-L5** to 15 feet building separation. Variance of 20 feet requested

Bill Kremer asked if the BZA denies the variance could the developer come back next month with a different variance request. Bruce Knippenberg stated yes or that they could go with the 35 ft building separation. Danny Karam stated that the biggest variable is sanitary, needs to put in a new pump station because the original pump station was installed incorrectly by Portage County, it was too shallow. He states that by having to put in a new pump station, there isn't room to have 35 foot separation. Scot asks if the hardship is a financial hardship for the developer and he states yes. Mike Wohlwend stated that the 15 ft separation is now the norm for developers in all the nearby cities, it is what people want. Sean Phillips stated that comparing Brimfield to cities like Cuyahoga Falls and other is not a fair comparison due to the difference in density. Mike Hlad requested that a roll call be given after the vote.

#### **MOTION #2020-024**

**Bill Kremer** made a motion to deny the variance of 20 feet, **Scot Etling** second, all in favor, motion passed.

Vote:

**Scot Etling Yes**

**Ed Shuttly Abstain**

**Sean Phillips Yes**

**Bruce Knippenberg Yes**

**Vince Murdocco Yes**

**Alternates: Clayton Popik Yes**

**William Kremer**

**Motion passed. Variance denied**

**Zoning Conditional Use Application:**

Applicant: GREAT Development LLC

Owner: Pitts Retreading & Tire Co

Address: 1105 Tallmadge Rd, Kent, OH 44240

Parcels: 04-033-00-00-013-000 Zoned: T-C

04-033-00-00-014-000 Zoned: T-C

04-033-00-00-012-000 Zoned: T-C

04-032-00-00-001-000 Zoned: T-C

Conditional Use Request: Applicant requests conditional use to build apartments in Town Center District. **Per Brimfield Township Resolution Section 308.2 B1h:** "All uses not covered must come before the Board of Zoning Appeals".

Mike Hlad stated that a previous Conditional Use was approved but their configuration has changed for Redwood. They moved the substreet configuration down 8 lots instead of 6, moved some units due to some soil conditions. Same road configuration just moved several units.

**MOTION #2020-025**

**Vince Murdocco** made a motion to approve the Conditional Use, **Ed Shuttly** second, all in favor, motion passed.

**Zoning Variance Application:**

Applicant: Kevin P Herring

Owner: Kevin P & Deborah M Herring

Address: 5255 Mogadore Rd, Kent, OH 44240

Parcel: 04-002-00-00-006-002 Zoned: L-I

Variance Request: Applicant requests variance to build accessory building in front yard **Per Brimfield Township Resolution Section 510.03 A4: Regulations of Accessory Buildings and Structures:** "It shall not be located in the front yard area of a lot."

Kevin states that he owns to lot, both flag lots. Had photos, diagrams, explained that the way his house is located in the back area of his property the back yard is slanted on not buildable. The front area where he wants to build is actually the back yard of the neighbor's house.

**MOTION #2020-026**

**Scot Etling** made a motion to approve the Variance for an accessory building in the front yard, **Vince Murdocco** second, all in favor, motion passed.

**Zoning Variance Application:**

Applicant: Kevin P Herring

Owner: Kevin P & Deborah M Herring

Address: 5255 Mogadore Rd, Kent, OH 44240

Parcel: 04-002-00-00-006-002 Zoned: L-I

Variance Request: Applicant requests front setback variance. **Per Brimfield Township Resolution Section 313.03 E1 Area, Yard and Height Requirements:** "Minimum Front Yard Setback: Lots with partial or no frontage on a cul-de-sac circle: Fifty (50) feet." Applicant requests front setback from 50 feet to 15 feet, variance of 35 feet.

**MOTION #2020-027**

**Scot Etling** made a motion to approve the Variance for the 35 foot variance. **Vince Murdocco** second, all in favor, motion passed.

**Zoning Conditional Use Application:**

Applicant: JM & Sons dba Sunny Hill Villas c/o Nick Parianos

Owner: JM & Sons dba Sunny Hill Villas c/o Nick Parianos

Address: 890 Tallmadge Rd, Kent, OH 44240

Parcel: 04-039-00-00-001-000 Zoned: R-3

Conditional Use Request: Applicant wants to complete development with 72 units as proposed in original Conditional Use Request in 1996 and 2000. **Per Brimfield Township Resolution** "All uses not covered must come before the Board of Zoning Appeals".

Jim Parianos stated he wants to finish the apartments project with 24 additional units, as was the original plan and conditional use. States the new buildings will look exactly the same as the current apartment buildings. There will be one building as 2 bedroom units, one building will be one bedroom units.

**MOTION #2020-028**

**Vince Murdocco** made a motion to accept the Conditional Use Application as presented, **Ed Shetty** second, all in favor, motion passed.

Mike Hlad and Mark Guidetti stated that Mark is planning on giving some updated training to the BZA and Zoning Commission members possibly in August, 2020.

**MOTION #2020-029**

**Scot Etling** made a motion to accept the emails Zoning Secretary Jendy Miller read into the record. **Vince Murdocco** second, all members in favor, motion passed.

**MOTION #2020-030**

**Ed Shetty** made a motion to adjourn, seconded by **Sean Phillips** All members in favor. Motion carried. Meeting adjourned at 9:23 p.m.

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**Bruce Knippenberg**

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**Ed Shetty**

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**Scot Etling**

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**Vince Murdocco**

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**Sean Phillips**

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**Clayton Popik**

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**William Kremer**

