

MINUTES
Nimishillen Township Board of Zoning Appeals
4422 Maplegrove NE, Louisville, OH 44641
Wednesday, April 2, 2014 – 7:00 PM

Board Members: Bill Ehlers, Chairman
Pan Aslanides, Vice Chairman
Anthony ‘Tony’ Mucci, Secretary
Gary Brahler, Member
David Foss, Member
Arthur ‘Art’ Smith, Alternate

Zoning Inspector: Dale Riggerbach

Township Secretary: Sharon Shaub

Purpose - APPEAL #603—James Renie of 7425 Brookside NE, Louisville, Ohio, parcel #33-99024, zoned R-2 One and Two Family Residential, is requesting three (3) variances: **1)** Lot area of 11,803 sq. ft. instead of the required 15,000 sq. ft. at 7424 & 7422 Brookside St. NE, Parcel No. 33-99024 (Duplex); **2)** Front yard setback of 12.1 feet instead of the required 40 feet at 7424 & 7422 Brookside St. NE, Parcel No. 33-99024 (Duplex) and **3)** Front yard setback of 3.8 feet instead of the required 40 feet at 7435 Brookside St. NE, Parcel No. 33-00697. These are the requirements per Section 703.3 of the Nimishillen Township Zoning Resolution.

NOTE: All reports or attachments are available via email or fax at no charge or can be picked up at the township office located at 4915 N. Nickelplate at a cost of 10 cents per page. Audio of the hearing can be emailed by calling the township office at 330-875-9924.

CALL HEARING TO ORDER:

Chairman Ehlers opened tonight’s hearing at 7:00 PM and introduced all board members, zoning inspector and township secretary and explained the procedure of tonight’s hearing. He then 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 saying, “I do”. Ehlers then said if anyone in attendance does not agree with the swearing in, say “I don’t”. There was no response.

Joshua Renicker, PE, MS-ENMGMT, Project Manager, Hammtree & Associates, Limited stepped to the podium said he is representing Mr. Renie who is requesting the following three (3) variances:

1. Lot area of 11,803 sq. ft. instead of the required 15,000 sq. ft. at 7424 & 7422 Brookside NE - Parcel No. 33-99024 (Duplex) *Reason:* Lot #1 is an irregularly shaped lot (trapezoid like). It’s locked in there based on the drives and road and access is needed to Mr. Renie’s house as well as to the duplex. There’s no way to shape the lot differently to get the required area.

2. Front yard setback of 12.1 feet instead of the required 40 feet at 7424 & 7422 Brookside St. NE - Parcel No. 33-99024 (Duplex). *Reason:* Because of the existing structures and in order to get the turnaround to fit so cars can actually turn around in the turnaround, it needs to be so long. There's also a 10' right of way between the edge of the pavement and the right of way line. That's why there's a small amount of setback.
3. Front yard setback of 3.8 feet instead of the required 40 feet at 7435 Brookside St. NE - Parcel No. 33-00697. *Reason:* This variance request is because of the existing house with an existing covered porch/patio and in order to bring that right of way line from the existing road and continue it up to where the turnaround is, it cuts right through that line and is within 4' of the patio/enclosed porch.

Chairman Ehlers asked the Board if they had any questions.

Tony Mucci:

- You said you're here for three variances. Are these three separate items or is this all one item? Is this a yes or no on each one?

Zoning Inspector Dale Riggerbach: Mr. Renie is applying for three variances under one variance. All three have to pass in order to approve Mr. Renie's variance request.

David Foss:

- Turnaround – that would be township property – will it be maintained by the township?

Joshua Renicker: It will be asphalted according to county and township standards and yes, it will be maintained by the township.

Bill Ehlers:

- What prompted the turnaround after all these years?

Joshua Renicker: In order to split the property so Mr. Renie can sell the individual houses and in order to get the required permits from the county, Mr. Renie had to meet requirements such as needing a certain amount of frontage per home and having access to the street from the right of way. Usually you would have a cul-de-sac but there's no space for a cul-de-sac. Mr. Renie got a variance from Regional Planning to do a T-type turnaround.

Bill Ehlers:

- Is the turnaround designed for vehicles to pull in and back out?

Joshua Renicker: Yes

Tony Mucci:

- Why didn't he go in deeper and make the 'T' on the right side to give more frontage to the duplex? Mr. Mucci said he understands trying to save their property but said he was surprised at the layout...is he just trying to save the tree?

Joshua Renicker: It's important to Mr. Renie to save the tree.

Tony Mucci:

- Now you've eliminated one of the ways to get frontage. Instead of 12', could have been at least 22'...just a question...if went straight in and went to the right and continued the driveway out through the back, seems like you would at least gain a little bit.

Gary Brahler:

- Did Regional Planning approve this whole set up?

Dale Riegenbach: Regional Planning gave conditional approval upon approval of the township. Mr. Renie had to get approval from the county because if they wouldn't approve it, there would be no reason to appear before the Township BZA.

In regards to all the variances, they had to apply for these variances through Stark County Regional Planning. All of these properties have to have at least 50' frontage and that's why the duplex needs 50', his home at 7425 60' and the home at 7435 has 50'. That's why this was done in the 'rectangular' shape. Mr. Riegenbach said he went out and measured today and they are all correct.

The other way would have been a cul-de-sac but wouldn't have been current in today's subdivisions which is 50' – would have only been 40' – wouldn't have gained much in doing that. Fire trucks still wouldn't have room to turn around nor would the bigger township plow trucks. This is why they decided to do a 'T' type turnaround because it would fit for now.

Mr. Riegenbach said the question was raised as to why they didn't do a cul-de-sac. Mr. Riegenbach said the 'T' came from Joe Underwood with Stark County Regional Planning. Mr. Underwood said some might think this would be setting precedence by doing it this way but in RPC's verbiage, this is pinpointed to this particular case and probably will not address these down the road. There are several dead-ends in the township. If fire trucks go in, they have to back out. Fire trucks won't enter a concrete drive for fear they might crack the concrete and the same goes for the larger township plow trucks.

Gary Brahler:

- Asked about the stake line or stake next to the other property.

Dale Riegenbach: Yes. It's within 6"- 8" stating he was there today and then went back to the office and checked on-line and yes - indeed it is.

Chairman Bill Ehlers said this is a tight one.

Dale Riggerbach: The whole area is tight and we're not going to correct it by doing much of anything other than moving stuff around – not going to move houses or garages. There was a carport there at one time – not sure when it was built – but the last picture he saw on line was in 2003 and it was very close to the line at that time. Discussion followed.

Someone in the audience started speaking. **Chairman Ehlers** explained what he was saying would not be in the minutes and that he had to step to the podium and sign in before speaking. Ehlers said he would have a chance to speak and say whatever he wants to say in a little bit.

Pan Aslanides:

- When he went to check Mr. Renie's property, he was told nothing sneaky was done and Mr. Renie did everything he thought was right 50 years ago.

Bill Ehlers:

- David Foss ran into some interesting information. Don't know if it's pertinent to this case, but Mr. Foss did some research and traced it back to President James Madison...In 1846, the property was deeded to the Renie family. Discussion followed.

RESIDENTS OPPOSED OR IN FAVOR OF THIS VARIANCE:

Chairman Ehlers asked if there was anyone present who wanted to speak either for or against Mr. Renie's variance request and asked Joshua to stay at the podium with the enlarged drawing in case residents had any questions.

OPPOSED:

There was no one in attendance opposed to Mr. Renie's variance request.

IN FAVOR:

James Duckworth of 7444 Brookside stepped to the podium and said he's the neighbor right beside the duplex. He also wanted to correct Dale on the garage. Nothing was done at night – he and his wife bought their house 20-21 years ago and the carport was there.

The gentleman they hired got all the permits through Nimishillen Township and Stark County. They built a mother-in-law suite on the back of their house. There was an existing carport that he was able to track back even before he owned it. The county said no problem for the garage but he had to keep it within the foot print of the carport. One of the Board members said this is exactly what Dale said earlier.

Mr. Duckworth is in favor of this variance request and thinks Mr. Renie should be grandfathered in. The house is 80 years old - the duplex was built in the 60's.

Jeff Proffitt of 7465 Brookside stepped to the podium. He is two houses down from Mr. Renie south of 44. He is totally for whatever Jim has to do to get his variances passed. His uncle built his house in 1963 – the same year Jim built the duplex. He takes care of Jim’s driveways in the winter and said Jim is a great neighbor.

Jim Renie of 7425 Brookside stepped to the podium. Since Mr. Renie arrived after the mass swearing in, Chairman Ehlers swore him in asking him to swear that the information he was about to present, either in oral or written form, is true and accurate to the best of his knowledge. Mr. Renie responded by saying “I do”.

Mr. Renie said he lives at 7425 Brookside which goes east & west off Brookside off Rt. 44. He has the last 3 acres that’s been in his family for 140 years. In 1963, he built his home. He was told it would be better to build a duplex – live in one side and rent out the other side to build up equity. He built the duplex on the south side of the property. For the next 50 years, he lived there and raised a family.

In the 80’s, a new law appeared on the books stating the road he lived on had to be extended in front of the house which immediately made his house and duplex illegal. He and his attorney made an appointment at Stark County Regional Planning with Cliff Meidlein & Joe Underwood. He tried to get grandfathered in but was turned down. He was told he needed to hire an engineering firm and come up with plans for a cul-de-sac that would fit in the limited space. He contracted Hammontree, came up with a ‘T’ shaped cul-de-sac.....and here we are.

Mr. Renie said this is a hardship because if something happens to him, his wife and daughters won’t have to worry about what they would have to do so he wants to get this taken care of to ease his wife’s mind and his daughter’s mind.

Chairman Ehlers thanked Mr. Renie for his presentation and said he explained a lot of what was going on to the Board.

LETTERS/PHONE CALLS:

Chairman Ehlers asked Dale if any letters were received at the zoning office or if there were any calls. Dale said no letters were received and there were no phone calls regarding this variance.

MOTION FOR A BALLOT VOTE:

With no further discussion, questions or comments, Chairman Ehlers asked the Board for a motion for a ballot vote. If anyone denies Mr. Renie’s variance request, a reason must be given.

GARY BRAHLER MOTIONED FOR A BALLOT VOTE TO APPROVE OR DENY MR. RENIE’S REQUEST FOR THE THREE VARIANCES UNDER ONE VARIANCE SECONDED BY PAN ASLANIDES. MOTION CARRIED.

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| Roll call voting: | Bill Ehlers | - | APPROVE |
| | Pan Aslanides | - | APPROVE |
| | Tony Mucci | - | DENY |
| | Gary Brahler | - | APPROVE |
| | David Foss | - | APPROVE |

Tony Mucci denied Mr. Renie’s request because he doesn’t feel that 3.8 feet is enough frontage for setbacks and feels it should be done different.

Chairman Ehlers said the **request for Appeal #603 has been APPROVED by a vote of 4 to 1**. He advised Mr. Renie to contact Dale during regular office hours to make arrangements to pick up the proper permits.

OLD BUSINESS: Discussion was held regarding the March 5th hearing about the role of the ATF and about notifying the Fire Department of gun businesses in the township.

NEW BUSINESS: There was no new business to discuss.

APPROVAL OF MINUTES:

*DAVID FOSS MOTIONED TO APPROVE THE WRITTEN MINUTES FOR MARCH 5, 2014 AS PRESENTED SECONDED BY GARY BRAHLER. **MOTION CARRIED.***

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| Roll call voting: | Bill Ehlers | - | IN FAVOR |
| | Pan Aslanides | - | IN FAVOR |
| | Tony Mucci | - | IN FAVOR |
| | Gary Brahler | - | IN FAVOR |
| | David Foss | - | IN FAVOR |

ADJOURNMENT:

*TONY MUCCI MOTIONED TO ADJOURN AT 7:50 P.M. SECONDED BY PAN ASLANIDES. **MOTION CARRIED.***

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| Roll call voting: | Bill Ehlers | - | IN FAVOR |
| | Pan Aslanides | - | IN FAVOR |
| | Tony Mucci | - | IN FAVOR |
| | Gary Brahler | - | IN FAVOR |
| | David Foss | - | IN FAVOR |

Bill Ehlers, Chairman
NIMISHILLEN TOWNSHIP BOARD OF ZONING APPEALS

Anthony Mucci, Secretary