

Danbury Township Board of Zoning Appeals

January 18,

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The Danbury Township Board of Zoning Appeals Special Meeting was called to order at 5:09 p.m. by the Chair, Loretta Grentzer. The Pledge of Allegiance was recited.

The roll call showed the following members present: Chair, Loretta Grentzer, Vice-Chair, Lisa Bauer, Ms. Sherry Roberts, Mr. Clyde Shetler and Mr. Joseph Fetzer. Alternate, Mr. Gregory Huffman and Alternate, Ms. Patty Zsigo were excused. Also, present was Kathryn Dale, Zoning & Planning Administrator. Visitors present were Lorrie Hedges, Dan Peterkoski, Elizabeth Peterkoski, Anthony Puckett, Lee Short, Jim & Susan Hackbarth, and Theresa Bahm.

Ms. Dale read the rules of order for the meeting proceedings. The meeting is being held via Zoom due to the Covid-19 pandemic. Ms. Dale acknowledge everyone who joined the meeting and explained that prior to speaking, the Chair would call on everyone to give them the opportunity to speak. She asked that if they were not speaking to place themselves on mute so that any background noise was blocked. Ms. Dale explained that at the conclusion of the hearing during the Board's deliberation, the applicant and any members of the public would be placed in the "waiting room" of Zoom. She explained that they should not leave the meeting because the Board will come back and make their decision openly. The Chair asked Mrs. Dale if all the documents relating to the case had been received and were in proper order. She indicated that they were. The Chair swore-in the Zoning and Planning Administrator, Kathryn Dale.

The Chair asked Mrs. Dale to introduce the first case of the evening.

Adjudication Hearing
Case BZA #2022-002
311 Steele
Hedges

Request for a Conditional Use in accordance with Section 3.5 and Section 4.2 to permit the use of the structure as a Bed & Breakfast.

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. Mr. Fetzer indicated he would be abstaining. Ms. Dale explained that the Board Members are required to abstain from a case when they live within a certain radius of a property making a request to the Board. Ms. Dale asked Mr. Fetzer if he wished to remain muted or sit in the Zoom Waiting Room. He said he would wait in the waiting room.

Ms. Dale explained to the applicant that there were no alternates available this evening since they are both out of town, so there are only 4 Board Members available to vote on the case. Ms. Dale told the applicant they have the option to continue their hearing until next month when an Alternate and full Board might be available, or they could choose to proceed with the 4 Members present. Ms. Dale explained that if the vote came down to a tie vote, the application would automatically be placed on the agenda and reheard again next month. Ms. Hedges indicated that she wanted to proceed and see what happens.

Ms. Roberts moved, and Mr. Shetler seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale stated that the application is to convert part of a single-family residential home, specifically the loft of the attached garage into a Bed & Breakfast. The property is zoned "R-3" High Density Residential and a Bed & Breakfast is listed as a Conditional Use in this zoning district. According to our permits, the garage and breezeway were issued a permit in 2014 (Permit 2014-007) and specifically noted at that time that the space above the garage was to be used for storage purposes only. At some point the space was illegally converted without proper permits and the owner received a violation letter October 12, 2021 (**Refer to Twp. Ex. 1**), when it was discovered that the space was being advertised for rent for periods of less than thirty (30) days. The goal of the applicant is to accommodate approximately two (2) adult guests in a 1-bedroom efficiency-style space. The space was inspected November 5, 2021, by the Ottawa County Building Department and a number of items need to be corrected prior to the space being occupied. The applicant has intent to make the necessary corrections.

The Danbury Township Land Use Plan was updated and adopted in 2017. The subject property is identified as a Neighborhood 3 – High Density Residential area. The Neighborhood 3 – High Density Residential does call for multi-family living situations and some mixed-use types of development to be an appropriate use for this area.

Ms. Dale reviewed the zoning code language for Bed & Breakfast. According to the floor plan submitted, the room being offered for rent would meet the minimum 100 sq.ft. size requirement. The applicants have already had the space inspected by the Chief Building Official of Ottawa County to determine if this space could be used in this capacity and to determine occupancy. A total of 3 parking spaces are required to be provided. There are 2 garage bays available on the property and at least 4 vehicles can fit in the driveway, on the property, to accommodate additional vehicles or guests.

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According to the applicant, they would not allow trailers for personal watercraft to be brought to the property. The floor plan submitted with the application in Applicant's Ex. 1 indicates that a stove is provided in the space. In order to be compliant with the zoning requirements for a Bed & Breakfast, the stove will have to be removed from the space. Should the applicant ever decide that they want to offer more rooms for rent, they will have to come back before this Board to have that approved. Ms. Dale concluded by reviewing the decision criteria the Board would be considering during their deliberations.

The Chair asked if the Board Members had any questions for Ms. Dale. Ms. Bauer asked when Ms. Hedges started fixing up this space for a B&B. Ms. Dale said that is a question for Ms. Hedges and she'll have to answer that once she's sworn in.

Lorrie Hedges, Owner/Applicant, 311 Steele, Marblehead, was called upon and sworn in. Mrs. Hedges reviewed the paperwork and stated it was as she had submitted. The Chair asked if there were any additional documents that she wished to enter into the record. There were none. The Chair invited Ms. Hedges to provide her testimony.

Ms. Hedges said she is applying for a Bed & Breakfast above her garage. She had originally planned on just having a garage with some storage above. She said it took her about 8 years to slowly do some things upstairs. Ms. Hedges said she had been laid-off during Covid and she thought she would just try to finish that up. She said she hired her niece at \$15.00 per hour and she helped her. Ms. Hedges said she did rent it out monthly and nightly for about 3-4 months this past summer to just test the water. She said she knew it was out of compliance, but she just wanted to see if there was a business interest for this and there was. She said to be honest she got a little chicken because she knew she was not in compliance, so she had quit doing it around August. She said her plan was to get into zoning compliance at the beginning of this year, but just the way things turned out, it didn't turn out that way. Ms. Hedges said she is applying for the Conditional Use for a Bed & Breakfast. To recap, it is owner-occupied by herself. She does not have any employees. The area above her garage is approximately 700s.f. and it is an open floorplan. There is one bed, which is a queen-sized bed. The garage is attached via a breezeway to the main residence. She said she has plenty of parking because she has a full driveway from the road to the rear of the property and she has at least 2 parking spaces in front of the dwelling as well. She said she will not be putting any signs up on the property and she has been in contact with the Building Inspector. She explained that he gave her a punch list of about 7 items that would need to be corrected and her target is to get those completed by March. Ms. Hedges continued and said that the stove Ms. Dale referred to has been removed. If anyone happened to drive by prior to the hearing, she said she does have a trailer and she has moved that to the back of the property so it's not in sight.

Ms. Hedges said that her property faces the Mar-Lu Hotel, so she is used to being in a commercial area because there are overnight people there all day long. She said to be honest, it's a little noisy over there. But she said that she doesn't think by allowing herself to have a Bed & Breakfast is going to interrupt the neighborhood. She said she is very picky about anyone coming onto her property. Only one vehicle will be allowed. No trailers. No nothing. One car and that's it. She only plans on doing this on the weekends, Friday through Monday. She works part-time during the middle of the week. She said she also tries to take care of her aging parents the other two days of the week. So, it'll be just weekend traffic. Ms. Hedges also said she only plans on doing it during the summertime. She said she lives in Channel Grove Marina. It's a marina, so there's boats coming in and out all day long. She said she's kind of in a double whammy as far as commercial traffic with the Mar-Lu Hotel, and also the Channel Grove Marina traffic. She said she is in good standing with all of her neighbors. Her neighbors on the corner for years have; they've always enjoyed just hobnobbing with her dad. Her dad is now a retired charter captain. And so, they like, when whenever she has somebody come and visit her, they're always, you know, talking it up with them, who's caught the most fish and so forth. She said she has a good relationship, in her opinion with all of her neighbors. Ms. Hedges concluded that she does believe that she has met all of the requirements for the zoning that we are in, or that my cottage is located in. That's all she had. Thank you.

The Chair asked if any Board Members had any questions. Ms. Bauer said her question was answered. She was curious about when Ms. Hedges decided to make it a Bed & Breakfast. She asked Ms. Hedges to confirm that she answered basically this past summer? Ms. Hedges said yes. Ms. Bauer asked, you chose not to apply for the zoning just to test it out? Is that correct? Ms. Hedges responded, mainly, um, I honestly, over the years, I've been a little bit intimidated by the planning and zoning. But I probably was just more intimidated for reasons of gossip and hearsay. I probably should have, you know, tackled this earlier. I admit it. The other thing is, I was so afraid I couldn't pull off getting everything done for a complete living unit if I had applied for it. I would have had a year to get that done. This took me eight years. I just dallied around; I do woodworking myself, I put a floor in all by myself, I basically did all the work upstairs all by myself and took my time. I made all the cuts for all the wood for the flooring. My bathroom I welded - if you have a picture Ms. Dale - Yeah, if you see that horse design there, I welded that up years ago. And I just took my good old time. I'm very artsy.

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I couldn't have done that inside of a year's permit, either. I'm not making excuses for myself. I'm just telling you the history and how much it took me to really finish it.

Ms. Roberts indicated she had a question for the applicant. Ms. Roberts said, I've listened to your testimony and your place sounds like it will eventually meet the criteria for a bed and breakfast. But I'm really offended by what you said. You knew the law you knew the zoning and you did it anyway, because you just felt like doing it anyway. And that to me is offensive. Ms. Hedges apologized to Ms. Roberts and said, you're right. Looking back, if I had to do it over again, I absolutely would have chosen the better route. I'm paying the price for it now, especially with the building inspection. It got quite, quite costly to try to catch up. I do apologize and I was incorrect, I should have done it the right way. Ms. Roberts commented that she thinks as far as the Building Department is concerned, Ms. Hedges is not having to do anything, she doesn't think, now, that she wouldn't have had to do in the very beginning. So, the cost is the cost. But okay, that's all.

Ms. Grentzer asked Ms. Hedges if she knows that she cannot have a kitchen or kitchenette? Or any cooking facilities in that apartment now, is that correct? Ms. Hedges responded, as far as I know, I believe I am not allowed to have a stove. I believe I am allowed to have a sink. If I'm not, I'll just remove it. And then as far as supplying, I have to supply one meal, and I have an area in the lower portion of the stairway to deliver that meal. That's my understanding.

Ms. Dale said she just wanted to clarify, Ms. Hedges would be allowed to have a sink, that's not a cooking item. There's nothing that prevents her from providing a refrigerator of some sort, whether it's kind of like those small college size ones, or even a full sized one that, her guests could store some drinks and things like that in if they brought those with them. The real kicker for her is providing the cooking apparatus, which would be a stove or grill or something like that. If she's stating that the stove has been removed, we would obviously verify that, if this application were to get approved to make sure that is not there. That's a requirement of a bed and breakfast, is that the cooking facilities are not provided.

The Chair asked if there was anyone with standing who wished to testify, or other correspondence received. Ms. Dale shared that in order to ensure the adjoining property owners had a chance to have a say in this hearing who may not have been able to participate in the Zoom format, she allowed written statements due to the health crises situation. She reported that she had received two written correspondences from any adjoining neighbors and there were attendees on the Zoom meeting.

Ms. Dale stated that the first letter was an email that will be identified in the record as Zilch & Chudzinski Ex. 1. This is from the neighbors directly to the north at 321 Steele and to the northeast at 7620 Downend. Ms. Dale explained Mr. Chudzinski reached out prior to the meeting and said he did not have electronic means, but his son-in-law Mr. Zilch did, so the correspondence is from both of them. Ms. Dale said the email was received 01.11.2022 and read it verbatim into the record. In summary Mr. Chudzinski had no opposition to the request and Mr. Zilch had concerns about there being more traffic on private roads that they as residents are responsible for maintenance on.

Ms. Dale said a second letter was received 01.18.22 from the southeast neighbor, Laurel Berhent at 7593 E. Crabtree and would be entered into the record as Berhent Ex. 1. Ms. Dale read the letter verbatim. In summary, Ms. Berhent was in opposition to the request.

Ms. Dale stated that Dan Peterkoski and Elizabeth Peterkoski were on the Zoom feed. The Chair called upon Mr. Peterkoski and asked if he wished to speak. He indicated that he would.

Daniel Peterkoski, 301 Steele, Marblehead was called upon and sworn in. Mr. Peterkoski said, I'll be honest, I'm not familiar with all these protocols of government. So, the first question I have - Can I ask how many residences have you allowed this to take place in already in our community? Is this a fairly common occurrence within the community? Ms. Dale responded that she would say that over the years, we probably get 1-2 requests a year, she's been here 10 years. She said they've had a number of requests, some that have been approved, some that have been denied. Ms. Dale said B& B requests would not make up even 25% of the cases that they are requested a year. Ms. Dale said in the last couple years, they are holding anywhere between 25 to 40 Board of Zoning Appeals cases a year. She said they get maybe one or two B&B requests a year. So, not a lot of requests, but they do receive them throughout Danbury Township. Mr. Peterkoski said okay, then does just one request set precedent for future request? Ms. Dale said no. Every case, that's why there's a hearing, every case is decided on its own merits based on its location and the impact that that request has. So just because one gets approved somewhere in the Township doesn't mean that one right next door would also get approved, just because. Every case is looked at with its own merits. Mr. Peterkoski said okay and asked if this is part of the current zoning? Or would this be a request to change current zoning? He asked if the zoning allows a Bed & Breakfast. Ms. Dale explained that the zoning district is "R-3" which is High Density Residential, and that allows for Bed and Breakfast as a Conditional Use. So a Permitted Use is something like a single family home. Every zoning district, no matter what zoning district one is in, has a list of Permitted Uses and a list of Conditional Uses. Permitted Uses, if they meet all of their setback requirements and underlying zoning requirements they're permitted by right and they can take a permit

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out and build it or modify it. Things like Conditional Uses are uses that require a hearing. They, are not just automatic. There may be additional standards that they have to follow, which is what she read earlier for bed and breakfast. There are other Conditional Uses for things like flea markets, or an airport or a telecommunications tower. There are a lot of different Conditional Uses and there are certain requirements that those uses would have to meet in order to function or establish, but they also have to be approved by this Board to legally establish. She explained that his zoning district still stays residential, but this would be a Conditional Use, or a special use that is considered, and whether or not it should be allowed at this property and in this neighborhood. Mr. Peterkoski said he'd like to say a couple things. His big concern with the whole thing, and the reason he's on here would be that if this set precedent and allowed a lot of other people to do the same thing, or investors to come in and purchase property, and run bed and breakfasts or, you know, rental properties, then I find that to be an issue. With that said, Ms. Hedges ran, did things all summer long. At no time this summer; we have the property directly next to hers and her driveway is right along; but at no time last summer did any of her guests cause any problems for us. Just to summarize what I said is I am concerned that allowing it might set precedent for other people to do the same thing. And, you know, right now, nationwide, there's investors that are purchasing property for things like this. Currently, there is no issue with what Ms. Hedges is doing to us as next-door neighbors. Ms. Roberts commented that the one thing is the person has to be, has to live in; be on the premises in order to have this work and to get approval for it. Mr. Peterkoski summarized, so like I said, I'm on here just to ask questions and get clarification. I'm not going to say either way, other than just to say that what Ms. Hedges has done this last summer has had no ill effect on us as neighbors.

Ms. Dale said she wanted to add another point of clarification. The Township does not allow single family homes to be, no matter what zoning district they are, whether they're Ag, "R-1", "R-2" or "R-3", which is what this neighborhood is, we do not allow single family homes to be rented for periods of less than 30 days. That is a zoning restriction. Anybody who has a single-family home is permitted to rent their home for 30 days or more. So, Ms. Hedges could rent out her; and you could as well, could rent out your entire home for the month of June to somebody, to somebody different the month of July and somebody different the month of August, or you could rent to somebody long term for a traditional rental, like a year. That's permitted. What's not permitted is to do short-term rentals for a period of less than 30 days. That's where these Airbnb's and VRBO become an issue. MS. Dale explained they had another property in Channel Grove that was advertising on Airbnb and other media, social media, where they were renting for periods of less than 30 days on weekends and weekly to people and they, the owners, were not there. That is the difference between a bed and breakfast versus Airbnb. A Bed and Breakfast has to operate much like a traditional Bed and Breakfast where it's owner-occupied. It has to be owner-occupied to meet the criteria of a true bed and breakfast, and it has to go through this process and be specifically approved. That's part of the reason why Ms. Hedges got a violation before also, it was being advertised for short-term rental, but she hadn't gone through this process, so that's why she got the violation letter. Any a bed and breakfast, as you heard earlier, if a bed and breakfast gets approved, they are limited to four rooms available for rent. That is in part, because when you get to five or more rooms available for rent, you begin to get into the hotel/motel criteria and having to get a license through the State of Ohio. That would require a commercial zoning district for that to happen. That's not even an option in Channel Grove because it's not zoned commercially. Ms. Dale said she just wanted everyone to kind of understand where the drawing line is for some of these things.

Mr. Peterkoski finished by saying that makes sense and that he would just state again, unless his brother and sister-in-law who are also on, unless they would like to speak, I think that my family from a property standpoint, would have no issue based on what she's currently doing. Okay, thank you.

Elizabeth Peterkoski, 301 Steele, Marblehead was called upon and sworn in. Ms. Peterkoski said that the only other thing she would like to add is, yes, she can affirm that while being up there, we did not know if Ms. Hedges had somebody there, so she is pretty much, she feels, like going through protocol of really approving who stays at her place. Our gazebo is directly in front of where she is keeping people and not one time during the summer were we disturbed at all.

Mr. Shetler said he had one question for Ms. Hedges to clarify on timeline. The cease-and-desist order was October 7th. You said you were trying it out for three to four months. Mr. Peterkoski makes it sound like you rented it out all summer of 2021. So, what was the real timeline when you started renting it? Ms. Hedges said she thought it was around June

The Chair asked the applicant if they had any questions or comments in regard to what was testified to by the others who spoke. Ms. Hedges indicated she did not.

There were no further questions from the Board.

Ms. Roberts made a motion to close the public comment segment of the hearing, seconded by Ms. Bauer. All were in favor and the motion carried.

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Mr. Shetler motioned to recess into executive session to deliberate the merits of the case. Ms. Roberts seconded the motion, and the roll call vote was as follows Mr. Shetler – yes; Ms. Roberts – yes; Ms. Bauer – yes; Ms. Grentzer – yes. The motion carried and the Board recessed at 6:00p.m.

Ms. Bauer moved, and Ms. Roberts seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Roberts – yes; Ms. Bauer – yes; Ms. Grentzer – yes. The Board reconvened at 6:18p.m.

The Chair asked Ms. Dale to read the Findings of Fact for BZA Case #2022-002:

With regard to Case #BZA-2022-002 being a request for a Conditional Use in accordance with Section 3.5 & 4.2 to permit the use of the structure as a Bed & Breakfast for the property located at 311 Steele:

1. The Conditional Use **will** be harmonious with and in accordance with the **general** objectives of the Danbury Township land use plan because the plan calls for this property to be “Medium Density Residential”. The Land Use Plan goal for housing is to provide diverse and affordable housing options. “Medium Density Residential” also calls for multi-family living situations to be an appropriate use for this area.
2. The Conditional Use **will** be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use **will not** change the essential character of the same area because there are no exterior changes proposed that would detrimentally effect surrounding property owners or the natural environment and the number of potential extra people on the premises will be limited due to the number of rooms being offered for rent and their sizes.
3. The Conditional Use **will not** be hazardous or disturbing to existing or future neighboring uses for the same reason as aforementioned in #2 above.
4. The Conditional Use **will not** be detrimental to property in the immediate vicinity or to the community as a whole for the same reason as aforementioned in #2 & #3 above.
5. The Conditional Use **will** be served adequately by essential public facility and services because public utilities to the site are available and would remain unchanged.
6. The Conditional Use **will** have vehicular approaches to the property which **will** be designated so as **not to create** an interference with traffic on surrounding public/private streets or roads because the property has existing vehicular approaches adequate to servicing the site.

Mr. Shetler moved that the Board adopts the findings of fact as read by the Recording Secretary and further moved that the Board has given due regard to the nature and condition of all adjacent uses and structure; the influence of the request on adjacent properties, neighborhood and community, the uses specifically mentioned in the “R-3” High Density Residential zoning district and after considering and weighing these factors, the Board finds that Decision Standard(s) (2) (3) (6) weigh more heavily to show that:

- a. The request **is** consistent with the Conditional Uses specifically mentioned in the “R-3” High Density Residential Zoning District and the intent and purpose of the zoning resolution; and
- b. There **is** a preponderance of reliable, probative and substantial testimony and evidence that **supports** the applicants request for the Conditional Use.

Therefore, the requests should be accordingly **APPROVED**.

Motion Seconded by Ms. Bauer. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Roberts – no; Ms. Bauer – yes; Ms. Grentzer – yes. Vote 3-1 the motion passed. The Chair stated that the application has been approved and the applicant can pick up permits following the Board’s next meeting which is February 16, 2022.

**Adjudication Hearing
Case BZA #2022-003
1906 Jeannie Drive
Puckett**

Request for an Area Variance from Section 5.2.1.C.i. to allow for an accessory structure to exceed the maximum 20’ building height (23’6” proposed).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Mr. Fetzer was reseated for this hearing. Mr. Shetler

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moved, and Ms. Bauer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale stated the applicant is proposing that the detached pole barn will be 23'6" tall where 20' is the maximum height allowed. The owner would like to match the pitch and design of the structure in a manner so that it matches the roof pitch of the house. Ms. Dale explained that the neighbor to the north, Mr. Patrick Lyons at 1836 Jeannie Drive had reached out to her prior to the hearing after receiving their notification in the mail and was questioning the accuracy of the aerial photograph included in the packet and the placement of this proposed garage. The neighbor had their property surveyed some time ago and has since asked the surveyor to come back out and re-mark or expose the corners of the property line between him and Mr. Puckett. She shared that Mr. Puckett in no way is contesting the location of the property line, but as a result, the building will have to be moved forward slightly, closer to the street to ensure that the building will meet the north, side setback requirement. A revised site plan is being presented to show a more accurate location of the building due to this new information and will go into the record as Applicant's Ex. 3. The placement of the building will be verified in a preliminary inspection also, prior to the building being built, should this variance request be approved. Ms. Dale said that the focus of the Board's decision is the building height variance and not a setback, but she wanted to make sure the Board was aware of the issue raised and the slight change to the site plan as a result. Ms. Dale concluded by reviewing the decision criteria the Board would be considering during their deliberations.

The Chair asked if the Board Members had any questions for Ms. Dale. There were none.

Anthony Puckett, Owner, 1906 Jeannie Drive, Marblehead, Ohio was called upon and sworn in. Mr. Puckett reviewed the paperwork and stated it was as he had submitted. The Chair asked if there were any additional documents that he wished to enter into the record. There was none. The Chair invited Mr. Puckett to provide his testimony.

Mr. Puckett said he's trying to build a pole barn and have it match the house. Doing so, the roof pitch needs to be a 6/12 or a 7/12 to match the house. 6/12 keeps it lower. With the storage being used for a camper and a boat the height of the doors has to be in excess, or at least 14 foot high, which makes the sidewall 16 foot high. So, with that pitch of a 6/12 would make it 23' 6". There is no other way to make those things fit into the building without that height. That is the only reason that I'm building it, is for storage of things that I currently store. If you looked at the aerial picture, my camper is in my driveway. I would like to put it away and not in visual sight right at the end of my driveway. I'm just asking for a variance of something to make it look better and match in. I could still build it with a flat roof almost. But that would not look appealing and nor would it look in accordance with the rest of the buildings on the property or on the street. That's all I have.

Ms. Grentzer asked if there were any other questions from the Board. Mr. Shetler said if the total height of this building is 23'6", how tall is his house? Mr. Puckett said he had his blueprint there and it's a 2-story structure. The plans show 27' to 28' but to the peak he thinks is almost 30', the measurement isn't indicated to the peak. Mr. Shetler said that is okay, he just wanted to make sure that the house is taller than the building he's asking to build will be. Mr. Puckett said yes, that it will almost be 6'-7' taller.

Ms. Grentzer asked if there was anyone with standing who wished to testify, or other correspondence received. Ms. Dale shared that in order to ensure the adjoining property owners had a chance to have a say in this hearing who may not have been able to participate in the Zoom format, she allowed written statements due to the health crises situation. She reported that there was no one else on the Zoom meeting for this case and that she had received one email of correspondence from Mr. Lyons, the adjoining neighbor to the north on 01.13.2022 and read the correspondence verbatim. In summary, the letter did not express support or opposition to the height variance request and just confirms that the survey pins at the corners of their shared property line are now exposed.

There were no further questions from the Board.

Ms. Bauer made a motion to close the public comment segment of the hearing, seconded by Ms. Roberts. All were in favor and the motion carried.

Mr. Shetler motioned to recess into executive session to deliberate the merits of the case. Ms. Roberts seconded the motion, and the roll call vote was as follows: Mr. Shetler – yes; Mr. Fetzer – yes Ms. Roberts – yes; Ms. Bauer – yes; Ms. Grentzer – yes. The motion carried and the Board recessed at 6:38p.m.

Ms. Bauer moved, and Mr. Shetler seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Mr. Fetzer – yes Ms. Roberts – yes; Ms. Bauer – yes; Ms. Grentzer – yes. The Board reconvened at 6:59p.m.

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The Chair asked Ms. Dale to read the Findings of Fact for BZA Case #2022-003:

With regard to BZA-2022-003 a request for an Area Variance from Section 5.2.1.C.i. to allow for an accessory structure to exceed the maximum 20' building height (23'6" proposed) for the property located at 1906 Jeannie Drive:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used as a single-family residence and is allowed to have a detached accessory structure with ample space to provide such a structure.
2. The request **is not** substantial because the structure will sit more than 100' from the road, so the added distance will not make the building appear to be as high and it will still be lower in height than the house.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because there are many other accessory buildings in the neighborhood and the homes are all large, on large 2-acre lots. The nearest neighboring home to the north will be over 115' away from this building as well.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are available to the property.
5. The property owner states they **were not** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **cannot** feasibly be obviated through some method other than a variance due to the design and roof pitch.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because there is no known negative impact of the increased height onto neighboring properties.

Mr. Shetler moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative, and substantial testimony; and
- c. There is evidence that **does** support the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by Mr. Fetzer. Roll Call Vote was as follows: Mr. Shetler – yes; Mr. Fetzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes. Vote 5-0 the motion passed. The Chair stated that the application has been approved and the applicant can pick up permits following the Board's next meeting which is February 16, 2022.

**Adjudication Hearing
Case BZA #2022-004
9335 Northern Avenue
Hackbarth**

Request for an Area Variance from Section 5.1.7 to allow for an addition to encroach into the west, front-yard setback (18'-8" proposed/ 20' required).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Ms. Roberts moved, and Ms. Bauer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale stated the applicant is proposing a garage & master bedroom addition onto the west side of the existing house with 1'4" (16") overhangs. The foundation of the additions will meet the required 20' front-yard setback, but the overhangs will encroach into the setback and the applicants are proposing an 18'8" front yard setback where 20' is required. All other additions proposed, including this addition meet all of the other zoning requirements. Ms. Dale noted that since the Board received their packets, the architect submitted 01.06.2022 more detailed plans showing the floor plans and building elevations of the proposed improvements. She said those will be entered into the record as Applicant's Ex. 3. She pointed out on these drawings the overhang in question that would be encroaching into the setback.

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Ms. Dale concluded by reviewing the decision criteria the Board would be considering during their deliberations.

The Chair asked if the Board Members had any questions for Ms. Dale. There were none.

Ms. Dale explained that Mr. Lee Short, Architect and Jim & Susan Hackbarth, Owners were both on the Zoom feed. Ms. Grentzer asked who would be speaking first. Mr. Short indicated that he would be.

Lee Short, Architect/ Agent, 5605 Lakeview Drive, Port Clinton, Ohio was called upon and sworn in. Mr. Short reviewed the paperwork and stated it was as they had submitted. The Chair asked if there were any additional documents that he wished to enter into the record. There were none. The Chair invited Mr. Short to provide his testimony.

Mr. Short said Ms. Dale did a very good job of explaining the variance that we're requesting. I'm representing the Hackbarth's, Jim and Susan. The Hackbarth's I'm going to say are a typical lake family. We have an existing cottage that we're expanding, we're looking at actually three different locations. The location that we're looking at specifically here is a three-car garage, attached, along with a bedroom. The garage that I'm proposing, I was trying to give them a full 24-foot-deep garage, just because of the length of cars, trucks, and things like that. When I say a typical 'lake family', they have water toys, they have different things that they store in there as far as that goes. The Townsend Beach development that they are located in does not allow accessory buildings. So that would have been an option in many locations. In this case, an accessory building is not an option. So, we looked at trying to maximize the garage space as well as the garage storage space. We were proposing a 24' but actually, when I got involved with the working drawings, the 24' shrunk back about 6" to a 23'-6" deep garage that allowed me to miss an existing bedroom window, as well as maintain the 20-foot setback off of Dale Lane. The request we're looking for, as Ms. Dale mentioned, is for a 16-inch overhang. The main thing there is to try to make it blend in better with the existing house, protect the overhead doors and the windows. Aesthetically, just try to make it tie into the existing cottage as best as possible. We're not conflicting with any sightlines up and down Dale Lane, or anywhere else with the addition. This is strictly, the variance request is strictly for the roof overhang to protect the doors and aesthetically make it make the addition more appealing. Mr. Short concluded by saying he was open to answer any questions and that Mr. & Mrs. Hackbarth were also available.

Jim & Susan Hackbarth, Owners/Applicants, 9335 Northern Avenue, Marblehead, Ohio were both called upon and both sworn in. Mr. Hackbarth said, first of all, we appreciate the diligence that Danbury does on this, this is an important part of being in Danbury. We're excited about this, it's an improvement and our family spends a lot of time up here. So, we would love to get your approval on this. We're excited for what Mr. Short has done for us and we're very happy with the possibility, with your approval, of moving ahead.

Ms. Grentzer asked if there were any other questions from the Board. There were none.

The Chair asked if there was anyone else with standing who wished to testify, or other correspondence received. Ms. Dale shared that in order to ensure the adjoining property owners had a chance to have a say in this hearing who may not have been able to participate in the Zoom format, she allowed written statements due to the health crises situation. She reported that there was no one else on the Zoom meeting for this case and that she had not received any correspondence from any adjoining neighbors.

Ms. Roberts made a motion to close the public comment segment of the hearing, seconded by Ms. Bauer. All were in favor and the motion carried.

Mr. Fetzer motioned to recess into executive session to deliberate the merits of the case. Ms. Roberts seconded the motion, and the roll call vote was as follows Mr. Shetler – yes; Mr. Fetzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes. The motion carried and the Board recessed at 7:17p.m.

Mr. Shetler moved, and Ms. Bauer seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Mr. Fetzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes. The Board reconvened at 7:25p.m.

The Chair asked Ms. Dale to read the Findings of Fact for BZA Case #2022-004:

With regard to BZA-2022-004 a request for an Area Variance from Section 5.1.7 to allow for an addition to encroach into the west, front-yard setback (18'-8"proposed/ 20' required) for the property located at 9335 Northern Avenue:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can be used for a single-family residence.
2. The request **is not** substantial because it is for the encroachment of roof overhangs and not the bulk of the structure, such as the foundation or walls.

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3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance for the same reason aforementioned in #2 above.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are available to the property.
5. The property owner states they **were partially** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance by reducing the depth of the garage or eliminating the overhangs, but they are hoping to allow the overhangs to better match what is existing on the house and provide some weather protection for the garage.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because there will be ample, light, air and space between this structure and the structures near it and does not impede any sight lines coming down the lane. This would be the minimum variance needed to accomplish the goal of the project.

Mr. Shetler moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does** support the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by Mr. Fetzer. Roll Call Vote was as follows: Mr. Shetler – yes; Mr. Fetzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes. Vote 5-0 the motion passed. The Chair stated that the application has been approved and the applicant can pick up permits following the Board's next meeting which is February 16, 2022.

Mr. Hackbarth said, thank you very much. I don't know if it can be reflected in the minutes, but I do want to say what I said earlier, thank you for everyone. For everything that you do, this is such an important part of a community, and the time that you give is very much appreciated. So, thank you very much and I don't want you to think that we take this for granted. Thank you.

**Adjudication Hearing
Case BZA #2022-006
8534 E. Harbor Road
Bahm**

Request for an Area Variance from Section 5.2.1.A.ii to allow for a 50' x 80' accessory structure which will exceed the cumulative square footage of all accessory structure space allowed (1,200s.f. allowed/ 5,360s.f. proposed) and to Section 5.2.1.C.i to allow said building to exceed the maximum allowable building height (20' allowed/ 23'5" proposed).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Mr. Shetler moved, and Ms. Roberts seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale stated The property contains 3.550 acres and has an existing 34' x 40' (1,360s.f.) agriculturally exempt barn for the purpose of housing livestock. This building is legally not included in the calculations for the purpose of the variance request. The property also has an existing 24' x 40' (960s.f.) detached garage near the single-family home, which would remain. The applicant is proposing a 50' x 80' detached pole barn, or 4,000s.f. of additional space for a total of 5,360s.f. subject to the zoning requirements where 1,200s.f. is the maximum allowed. The applicant is also proposing that the 50' x 80' pole barn be 23'5" tall where 20' is the maximum allowable height. A 20' x 30' loft is indicated to be inside the NE corner of the pole barn. That space is not permitted to be used for permanent or temporary use for habitation (i.e. living space, dwelling or rental).

Since applying for and being refused their initial permit application, the applicants have lowered the height of the building from the initial proposal. The started off with a 26'4" tall building but lowered the side wall height by 1' and lowered the pitch of the building to a 3/12 pitch instead of a

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4/12 pitch. The applicants have indicated that this building will be used primarily for agricultural purposes and could potentially qualify for an agriculturally exempt structure, however, if the property were to ever sell in the future, the next owners would have to use the building the same way. The applicants wish to go through the variance process, so they are able to use it for personal use themselves and leave that option open for any future owner. Ms. Dale concluded by reviewing the decision criteria the Board would be considering during their deliberations.

The Chair asked if the Board Members had any questions for Ms. Dale. There were none.

Theresa Bahm, Owner/Applicant, 8534 E. Harbor Road, Marblehead, Ohio was called upon and sworn in. Ms. Bahm reviewed the paperwork and stated it was as they had submitted. The Chair asked if there were any additional documents that she wished to enter into the record. There were none. The Chair invited Ms. Bahm to provide her testimony.

Ms. Bahm said, first of all, thank you all for taking the opportunity to do this and listen. When we first bought this property, we had always wanted to hopefully add another building. Unfortunately, we were misinformed. At that time, we thought that we could cover 35% of the land, we thought it'd be no big deal. Years later, we're finally getting to the point where we can build the building. We've accumulated a lot of stuff along the way. We are hoping that we can get the variance so we can use it not only for the animals and the other things we do with our little hobby farm here, but also to put in our personal camper. You can even see in the [aerial] picture all the stuff we have scattered around our yard, the camper, there's a Boy Scout trailer and we have these other trailers over here by the fire pit. In the garage we don't get to keep our cars in the garage. We're keeping the bobcat in there and we have a utility vehicle with a dump bed that I use when I clean up the stables and some other things. So, we kind of want to get the yard cleaned up and put everything in this building, get it organized and use the garage hopefully for my car, which I've never been able to do. In the existing barn, the exempt barn, we have goats, we also have turkeys and then I have 38 chickens. That barn is not a heated barn at all. When I get the baby chicks, I've had to keep them up in my regular garage because some, like if I get them early enough in March, it's too cold to put them down there, so I keep them up here in the garage. It would be nice to have an area where we could get babies; if I decide to get more goats, we've contemplated getting a mini donkey and things like that. I could have some more area for that also.

Ms. Grentzer asked if there were any other questions from the Board. There were none but Ms. Grentzer said she was curious. Mrs. Bahm mentioned turkeys and goats, you have goats also? Mrs. Bahm said yes, two Nigerian dwarf goats. Ms. Grentzer asked if they have any horses yet. Ms. Bahm laughed and said no, too much manure.

The Chair asked if there was anyone else with standing who wished to testify, or other correspondence received. Ms. Dale shared that in order to ensure the adjoining property owners had a chance to have a say in this hearing who may not have been able to participate in the Zoom format, she allowed written statements due to the health crises situation. She reported that there was no one else on the Zoom meeting for this case and that she had not received any correspondence from any adjoining neighbors.

Mrs. Bahm said she would like to say one other thing. We did purchase the lot, the existing lot that's empty, we did purchase that a couple years ago with the plans for this building, because we purposely didn't want a neighbor and didn't want to hinder anyone over there. So, our intent is to always keep that an empty lot. We did that on purpose when that lot became available. Also, I didn't mention about the height. The reason we are asking for the height variance is because we do want to put a loft in that one corner. If we didn't need the loft, we wouldn't really need that variance. The one picture [elevation drawing] shows it, on the north wall, you can see there's a window right there. That window is the loft area up on that second area. Currently, the barn that we have was Doc Merrick's old vet area, if any of you know that, in the old stable, they had like cages in there and kennels and it's all concrete. My hay and my straw really absorbs up a lot of that moisture out of that concrete floor and the damp because it's just a slab. I want to get all that upstairs in a heated area so that I won't end up getting moldy hay. Some of the things I've had to throw away just because of the storage in that existing barn. I wanted to mention that about the height. Ms. Grentzer asked, you just want to keep hay and etc. up in the loft. That's the purpose of the loft? Mrs. Bahm said, that's part of the intent. We also will, you know, we might use it for something but nobody's going to live there. This is not at all going to be a little apartment. It's going to have stairs up to it and then have a storage area and then maybe have a workbench too. He [her husband] might put his saw, wood cutting saw thing that he has, up there. He's not sure. Ms. Grentzer assured that the loft was not being constructed for the purpose of having anybody living there. Mrs. Bahm said oh no, not at all. No.

Ms. Grentzer asked if there were any other questions from the Board. There were none.

Ms. Roberts made a motion to close the public comment segment of the hearing, seconded by Mr. Shetler. All were in favor and the motion carried.

Mr. Fetzer motioned to recess into executive session to deliberate the merits of the case. Mr. Shetler seconded the motion, and the roll call vote was as follows Mr. Shetler – yes; Mr. Fetzer – yes;

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Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes. The motion carried and the Board recessed at 7:47p.m.

Ms. Bauer moved, and Ms. Roberts seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Mr. Fetzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes. The Board reconvened at 8:01p.m.

The Chair asked Ms. Dale to read the Findings of Fact for BZA Case #2022-006:

With regard to BZA-2022-006 being a request for an Area Variance to Section 5.2.1.A.ii to allow for a 50' x 80' accessory structure which will exceed the cumulative square footage of all accessory structure space allowed (1,200s.f. allowed/ 5,360s.f. proposed) and to Section 5.2.1.C.i to allow said building to exceed the maximum allowable building height (20' allowed/ 23'5" proposed) for the property located at 8534 E. Harbor Road:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used as a single-family residence and the owner is permitted to have accessory building(s).
2. The request **is** substantial because it is more than 4 times what is allowed.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because the property is of ample size and the nearest, neighboring structure will be 100' or more away.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are available to the property and any extensions will have to conform to those regulating, utility agency requirements.
5. The property owner states they **were not** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance by receiving an agricultural exemption.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because there would be ample light and air to other structures and the building should not provide any fire or safety concerns and it complies with all other zoning requirements.

Mr. Shetler moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (3) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does** support the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by Ms. Bauer. Roll Call Vote was as follows: Mr. Shetler – yes; Mr. Fetzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes. Vote 5-0 the motion passed. The Chair stated that the application has been approved and the applicant can pick up permits following the Board's next meeting which is February 16, 2022.

Reports and Communications from Members and Staff

Ms. Dale shared that she had provided each of them with updated zoning maps to insert into their zoning resolutions along with one page correction. She said there was no change to any of the text on the page insert, but that there was a chart that was positioned in the wrong spot on the page. She offered to each of the Members that they could bring their binders in, and she'd be happy to look them over to make sure all the information they have is the most recent and current version of the zoning resolution.

Adjournment

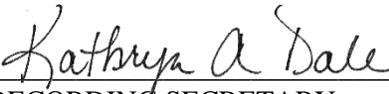
Mr. Fetzer moved to adjourn the meeting and Mr. Shetler seconded the motion. All in attendance were in favor and the motion carried.

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The meeting was adjourned at 8:08p.m.


RECORDING SECRETARY

Loretta Grentzer dotloop verified
02/16/22 7:42 PM EST
PGGH-YTPM-RS0G-HFTB

Joseph Fetzer dotloop verified
02/16/22 8:36 PM EST
DAPH-ST5U-1TGS-KILN

Lisa Bauer dotloop verified
02/16/22 7:32 PM EST
1PHH-CUT7-1GE0-GQQZ

Clyde Shetler dotloop verified
02/16/22 7:39 PM EST
JKPQ-C2SF-ODFL-AXCB

Sherry Roberts dotloop verified
02/16/22 8:41 PM EST
4DLM-KUBA-8FRP-FWW5

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