

**Board of Zoning Appeals Meeting
February 15, 2023
ZA-01-22, ZA-07-22
Continuance (for both cases)**

Members/Attendance: X Michael Johnston
 X Ricky Morrison
 N/A David Long
 X Robert Durick
 X John Grahovac

Also in attendance: X Bob Monus, Zoning Inspector
 X Michele Richards, Recording Secretary

Mike Johnston called the meeting to order at 7:00 p.m.

1st Order of Business:

Mike Johnston stated that the first order of business is to approve the minutes from the meeting held on January 19, 2023. Bob Durick made a motion to approve the minutes from the January 19, 2023 meeting. Ricky Morrison seconded the motion.

Voting:

Yes Bob Durick
Yes Ricky Morrison
Yes John Grahovac
Yes Mike Johnston

Motion carried.

2nd Order of Business:

Case #ZA-01-22 – This is a continued hearing from a previous request by Sameera Rahman and Tariq Aftab to allow the appellant to review their current plan and to issue a revised plan to obtain relief from minimum building setback from the property line, to construct an addition to their home located at 7924 Eastbrooke Trail. The request is to reduce the minimum building rear yard setback from the required forty (40) feet to thirty-three (33) feet. The property is located in a Residential-1 (R-1) zoning district and is known as lot number 86, parcel number 35-053-0-143.00-0 and is located in Poland Township, Poland, Ohio.

Items included in packet submitted:

1. Email from Zoning Office to Board
2. New Letter of Intent dated December 20, 2022
3. New Updated Site Plan (2)
4. Previously Submitted Site Plan

**Sameera Rahman
7924 Eastbrooke Trail**

Sameera Rahman stated she is present to propose changes and revisions from the previous hearing. The previous request was for a setback of twenty-four (24) feet. The drawing has since been revised and she is now requesting a setback of thirty-two (32) feet, which is an extension of seven (7) feet. The changes made

Board of Zoning Appeals Meeting
February 15, 2023
ZA-01-22, ZA-07-22
Continuance (for both cases)

to the drawing also reflect the movement or placement of the addition inwards toward the property, and the size from one thousand five hundred (1,500) square feet to one thousand two hundred (1,200) square feet. She also stated a concern was raised by neighbors regarding deed restrictions on the property and houses on Eastbrooke Trail. She went to the Mahoning County Courthouse to research this and the deed restriction has no mention of a minimum rear setback. There is also no governing board or homeowner's association mentioned in the deed restriction. She even confirmed with a neighbor that there was no homeowner's association when their house was built in 2001. She went on to say that the reason she is requesting an addition is to accommodate elderly parents. Her home has a multi-level layout, consisting of two steps between the kitchen and living room, and the living room and dining room, which does not accommodate wheelchairs. The house does present a practical difficulty.

She then approached the Board to present and review the new drawing.

Mike Johnston asked Sameera if she presented to her architect, Richard Yankle, the placement of ramps to overcome the steps between the levels in the home. She stated there is not enough space to do a ramp, in addition to the cost of removing the hard wood flooring. Bob Durick stated that the Board does not consider financial hardships.

Mike Johnston asked if anyone would like to speak in favor of this request. No one responds. Mike Johnston asked if anyone would like to speak against this request.

Sam Barillaire
3604 Timberbrooke Trail

Sam Barillaire stated in addition to what he mentioned at the previous meeting as far as flooding concerns, the appellant is requesting to build a house behind a house. He feels the lots are not large enough to accommodate a 1,200 square foot addition with a front porch, along with a 3,000 square foot house. He also stated as far as the deed restrictions, there are deed restrictions, but there is no board to enforce them. He stated even though they are adding an addition, they will still have multiple levels in their home. He is concerned about drainage issues also.

Janet Barillaire
3604 Timberbrooke Trail

Janet Barillaire said they live directly behind the appellant. Every time it rains, runoff water comes into their property as it is now. She also has concerns about being able to sell her home if this variance is approved.

Mike Johnston stated in light of all the concerns, the appellant is seeking a reduced minimum rear yard setback. It has nothing to do with the square footage of the dwelling or deed restrictions of the property. The Board's direction is to address the request of the rear yard setback.

Mike Johnston asked if anyone else would like to speak.

Tariq Aftab
7924 Eastbrooke Trail

Tariq Aftab is the husband of Sameera Rahman. He stated he wanted to address several things that were mentioned. First of all, they are not building a porch. The structure will be attached to their home, it will not be another separate house. They have a copy of the deed, and there are no deed restrictions relative to

**Board of Zoning Appeals Meeting
February 15, 2023
ZA-01-22, ZA-07-22
Continuance (for both cases)**

what was mentioned before (by Sameera) regarding the minimum rear yard setback. At the last meeting, it was said that every time it rains there is water in the backyards. There is a French drain that was installed approximately 20 years ago to address this issue.

Mike Johnston asked the Board for discussion. Mike Johnston stated in regard to the setback, it is better than what was originally submitted, however, he would like the addition placed closer to the house or the back wall of the garage. He also feels that ramps can be installed inside the home. He is not okay with the proposed drawing as it is written.

Ricky Morrison stated he is not opposed to the addition, but feels it can be redesigned better. He is also opposed to the new plans. He suggested that the Board table this and have the architect redesign the plans. Bob Durick agreed.

The Board discussed tabling the case and asked the appellants if they are willing to redesign their plans and present them to the Board again. Sameera stated she is in agreement and encouraged the Board members to visit her property.

The following motion was made:

Motion

Ricky Morrison made a motion in Case ZA-01-22 to table the decision to give the appellant an opportunity to re-draw their design and readdress the Board. Bob Durick seconded the motion.

Voting:

Yes Ricky Morrison
Yes Bob Durick
Yes John Grahovac
Yes Mike Johnston

Motion carried.

3rd Order of Business:

Case #ZA-07-22 – This is a continued hearing from a previous request by Justin Sargent to allow the appellant time to purchase and install an emission control device to his wood burning furnace and time to operate it until the Board reconvenes at this new meeting date. The purpose for the hearing is to request a Conditional Use Permit from the Board. His property is located at 8827 Woodland Drive, Poland, Ohio, parcel number 35-072-0-009.00-0 (lot 21) and his additional lot where the burner is located parcel number 35-072-0-010.00-0 (lot 22). Both lots are located in a (R-1) Residential-1 zoning district.

Items included in packet submitted:

1. Email from Zoning Office to Board dated January 4, 2023
2. Email from Zoning Office to Board dated January 17, 2023
3. Copy of Civil Lawsuit filed by Stephanie Gennaro

**Justin Sargent
8827 Woodland Drive**

Board of Zoning Appeals Meeting
February 15, 2023
ZA-01-22, ZA-07-22
Continuance (for both cases)

Justin Sargent connected his laptop to the television to present his case.

Justin stated that since the last meeting, he purchased and installed the catalytic emissions device on his outdoor wood burner. He was promised that this device would eliminate more than 90% of emissions from the wood burner, however, it created more emissions with the higher stack. He spoke to the manufacturer and he was told that his burner works too efficiently. After several attempts, he reverted to the 21-foot-high stack reaching above his roof line and immediate neighbor's roof line. He invited the Board members to his property to view the burner in operation. He had conversations with his neighbors and they have no issues. He also received stop work orders from the Mahoning County building department during that time. He called and emailed them with the process he is going through with Poland Township. He also received papers from Ms. Gennaro's attorney for smoke damages to her home and HVAC equipment.

He went on to say that the wood burner in the current location is not a nuisance to the neighborhood. He showed some wind statistics on the television via his laptop and continued with his presentation to the Board.

Mike Johnston asked if the Board had any questions. Ricky Morrison said that Justin has done his homework. Mike Johnston stated that all of the times he has been by Justin's house, it is always smokey in the neighborhood, but it does not matter whose furnace is smoking, it just always smells like smoke in the area. It is a rural area and everyone burns. He said he cannot make a conclusion as to who is making the smokey smell. Ricky Morrison added that on February 7, 2023, it was 24 degrees and immediately when he turned onto the street he could smell smoke, but he could not determine whose burner the smell was coming from.

Mike Johnston asked if anyone would like to speak in favor of this request. No one responds. Mike Johnston asked if anyone would like to speak against this request.

Stephanie Gennaro
8811 Woodland Drive

Stephanie Gennaro stated that she understands the comments about smelling smoke when you drive down the street. She referred to a letter from an HVAC person, that the Board has a copy of. She can tell when Sargent's furnace fires up. She cannot sleep, has headaches, sinus issues, runny nose, etc. She never had any of these symptoms until the wood burner was installed. She continued to speak about how the burner is a nuisance and voiced concerns about the burner heating the water and Sargent cutting down trees on his property. She also referred to an email from another neighbor, Nick Mallison, and a civil lawsuit she has filed against the Sargent's.

Mike Johnston proceeded to read the email from Nick Mallison dated January 17, 2023 to the Board for record.

Bob Durick asked Gennaro if she smokes cigarettes. She stated she used to be a smoker and occasionally smokes, but does not smoke a whole cigarette. She does not smoke in her house. Durick stated that he has smelled smoke on her. The conversation continued between Gennaro and Durick about smoking. Durick stated, for the record, that he loses a little bit of credibility for people that smoke and complain about sinus or other health issues.

Mike Johnston asked if anyone else would like to speak in opposition of the request. No one responds. Justin Sargent asked if he could speak.

Board of Zoning Appeals Meeting
February 15, 2023
ZA-01-22, ZA-07-22
Continuance (for both cases)

Justin Sargent
8827 Woodland Drive

Justin stated he wanted to address several issues that Gennaro has. First of all, he only cut down three trees that were dead and one small apple tree. Mike Johnston stated to Sargent that trees are irrelevant and it is your property. As far as heating water, it does not take much to heat the water because it is constantly circulating, it barely fires at all to heat water. It is similar to a hot water tank. He also called Clayton Heating to inquire if his burner would cause any damage to an HVAC system. He was told his burner would not cause any more damage than a fireplace or camp fire would. He stated he has spoken to neighbor, Nick Mallison, several times and every time he has said he had no problem with the burner. Sargent asked about the kids' health and Mallison stated his kids do have asthma, but have not lived there since June. Sargent feels the email from Mallison does not make sense.

Ricky Morrison asked Sargent about the damage to Gennaro's siding. Sargent stated he just heard about this recently, and Gennaro had not approached him about it. Gennaro stated that the HVAC person told her that due to the location of the wood burner, she would have a buildup of soot on her siding and A/C unit and that the HVAC person stated someone is going to have to come out and clean that unit.

Sargent stated he works in the trades alongside HVAC people, and asked a good friend of his, Jim Vestal, about the issue.

Jim Vestal
6726 Poland Center Drive

Jim Vestal stated he has been in sheet metal trades since 1999 and works at Roth Brothers. Vestal asked Gennaro if she had a 90% efficiency furnace. She stated they mentioned something about a 90%, but she didn't know what that meant. Vestal went on to say that high efficiency furnaces have a PVC pipe for the intake and the exhaust. If the system is installed correctly, the PVC pipe is glued, just as if water is going in, it has to be sealed tight. The air coming in is just for combustion, because fire needs air, it draws in outside air, goes into the furnace, gets fired and combusts, and gets exhausted right out. If it is bringing in fiery smoke from everybody's wood burners, it means her system was not installed correctly. It means someone did not glue and seal the pipes, which is not Justin's fault, or any other neighbors. It also could be leaky windows, doors, a drafty house, you will get smoke. The furnace is not drawing in outside air if it is installed correctly. As far as the soot damaging the outside condenser, if it getting soot on it, you just hose your condenser off to clean it. He does not see how a wood burner can cause extra soot. Vestal stated he built his home and built and installed his own HVAC system.

Discussion continued amongst the Board. Bob Durick asked Bob Monus in regard to the lawsuit, if the Board does or does not come to a decision, does it make a difference. Monus stated the Board is responsible to make a decision either way in the case. Anything dealing with outside litigation, property damages, housing values, are all separate issues.

Mike Johnston stated the original request in this case is to retain the wood burner and be granted a conditional use permit. Johnston stated during all of his visits to Justin's home, there is a lot of smoke in the neighborhood, and he cannot say where the smoke is coming from. He cannot justifiably say that Sargent is creating any more of a nuisance than anyone else on the street. Ricky Morrison stated he agrees with Mike. He also stated that the Board has been going in circles with this case, and it is the responsibility of the Board to make a decision and let the court's take it from there.

The following motion was made:

**Board of Zoning Appeals Meeting
February 15, 2023
ZA-01-22, ZA-07-22
Continuance (for both cases)**

Motion

Ricky Morrison made a motion in Case ZA-07-22 to grant the conditional use permit to keep the existing outdoor furnace in operation. Bob Durick seconded the motion.

Voting:

Yes Ricky Morrison
Yes Bob Durick
Yes John Grahovac
Yes Mike Johnston

Motion carried.

Meeting adjourned at 9:05 p.m.

Submitted by:

Michele Richards/Recording Secretary

cc: Trustees (3)
Board of Zoning Appeals (6)
Zoning Commission (6)
Paul. Canter, Fiscal Officer (1)
File (1)