

PUBLIC HEARING
BOARD OF ZONING APPEALS
January 29, 2009

The Austintown Township Board of Zoning Appeals held a Public Hearing on Thursday, January 29, 2009, at the Township Building, 82 Ohltown Road, Austintown, Ohio, for consideration of Appeal Case 2008-08-A.

The following Board members were in attendance:

Dawn Owens – Chair
Joseph Koch – Vice-Chair
Thomas Stellers
Robert Satterlee
William Glaros

Chair Owens opened the public hearing at 7 P.M.. All testimony in the following case given under oath or affirmation. Court Reporter in attendance, complete transcript taken of the hearing.

Motion by Mr. Glaros to **APPROVE** the minutes of the December 11, 2008 meeting. Seconded by Mr. Stellers.

Roll call vote: Mr. Glaros – YES; Mr. Koch – YES; ; Mr. Satterlee – YES; Dr. Stellers – YES; Mrs. Owens – YES.

Chair Owens turned the meeting over to Zoning Inspector Darren Crivelli to conduct elections for a Chair and Vice Chair of the Board of Appeals for calendar year 2009.

Motion by Mr. Glaros to nominate Mr. Satterlee for Chairman of the Board of Appeals for calendar year 2009. Seconded by Mrs. Owens.

Roll call vote: Mr. Glaros – YES; Mr. Koch – YES; Mr. Satterlee – YES; Dr. Stellers – YES; Mrs. Owens – YES.

Motion by Dr. Stellers to nominate Mr. Koch for Vice-Chairman of the Board of Appeals for calendar year 2009. Seconded by Mr. Glaros.

Roll call vote: Mr. Glaros – YES; Mr. Koch – YES; Mr. Satterlee – YES; Dr. Stellers – YES; Mrs. Owens – YES.

APPEAL CASE 2008-08-A

Jeffrey and Denise Hood, 5718 Yorktown Lane, Austintown, Ohio, 44515, appeals from the decision of the Austintown Township Zoning Inspector and requests a variance from the terms of Article VII-Residence R-2 District, Section 704-Private Garages And Other Outbuildings, of the Austintown Township Zoning Ordinance, as amended through May 24, 2007, to allow a shed measuring 10' x 14' with a rooftop deck measuring 16' x 19' constructed without a zoning permit to remain as placed three (3) feet from the easterly side property line. The minimum side yard requirement for an outbuilding is five (5) feet. Said property is zoned as a Residence R-2 District in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Darren Crivelli read the applicant's letter into the case record, referenced a site plan and elevation drawing submitted with the application and letters of zoning violation issued to the applicant on October 10, 2008 and October 27, 2008.

Chairman Satterlee stated the mailing list of those property owners notified for Case No. 08-08-A would be incorporated into the case record.

Jeffrey Hood, 5718 Yorktown Lane stated he constructed the shed to house his heater and pool pump. He apologized for not securing a zoning permit and stated he did not think he needed a zoning permit since he was not required to secure a building permit.

Mr. Satterlee asked how far off the property line the underground plumbing was. Mr. Hood stated approximately seven feet. The heater had to be vented by the side where the fence is located and left just enough room to meet the minimum clearance for the interior wall from the heater. Two parts to the shed: front part is for the pool area, than interior wall, and the step-down rear of the shed is for storage. The heater could not go behind the plumbing since there was already a deck which was used as a base for the first part of the shed.

Dr. Stellers asked the applicant why he did not secure a zoning permit. Applicant apologized for not securing the permit. The other detached structure was constructed prior to the applicant purchasing the house.

Mr. Satterlee asked the applicant to step forward and explain the drawing submitted with the application. The applicant was asked to draw the floor plan and fence. The drawing was marked as Exhibit A. Applicant explained the floor plan and the existing six square foot pad that is about seven feet from the fence. The step down is due to the yard elevation. Due to the placement of the original plumbing the applicant stated he could not place the shed anywhere else.

Mr. Koch observed that the shed is three feet from the property line but the overhang is about one foot from the property line. Mr. Hood affirmed the observation.

Mr. Satterlee asked if the structure above was a deck. Mr. Hood stated it was a deck to be used for tanning. The idea for the deck originated from a vacation trip to Myrtle Beach. The deck measures 16' x 19' for a total of 304 sq. ft. Applicant has spoken to the Building Inspector and showed him the pictures of the deck that zoning had taken. Applicant stated the Building Inspector has concerns about the ladder.

Mr. Koch asked how far the cantilever extended on the other side of the shed. Applicant stated four feet. Applicant then explained the construction of the deck. Mr. Koch stated that if he extended more than two feet he would have to construct posts for support.

No one else present in support of the request.

William Cunningham, 5717 Yorktown Lane questioned why he needed more storage since he has a three car detached garage and an attached two car garage but keeps all their vehicles in the front yard. He also asked why he did not secure a building permit since he is in the construction profession. Stated the applicant should have known what the zoning laws were and he built it without a permit knowing he could get a variance. Last, he asked if the board members visited the site and would they like this type of structure next door to them.

Mr. Koch asked the applicant about the foundation construction. Applicant stated the foundation was posts cemented three feet into the ground.

No one else in attendance to oppose the request.

Mr. Glaros asked the applicant about his occupation. Applicant stated he was in the remodeling business.

Denise Hood, 5718 Yorktown Lane stated they did not intend to put the deck above the shed but rather a metal roof. They had gone on vacation and upon returning decided to put the deck above the shed. Since the shed did not require a building permit she did not believe the deck would require a building permit, and therefore, they did not think they needed a zoning permit. She stated it is a very nice structure with windows and siding that matches the house. The deck will be finished this summer with stain that matches the wood on the house. She also stated that from where Mr. Cunningham lives you cannot see the shed unless you drive down the street. The pool area is secluded with trees. Feels the project is in good taste but will make any changes to it that the Board may propose and stated the heater for the pool had to be enclosed.

Mr. Koch asked why they determined a setback of three feet versus placing the building on the property line. Mr. Hood said he should have inquired about the side yard requirement. Mrs. Hood stated the placement of the pump and heater along with the distance of the interior wall from the heater determined the current setback.

Mr. Koch asked the Zoning Inspector how the side yard distance is determined. Zoning Inspector Crivelli stated the setback is measured from the foundation to the property line,

or in this case from the exterior wall to the property line. If the side yard setback is met, than there should be no problem with overhangs encroaching on the property line.

The Board recessed into executive session.

Prior to the motion, Mr. Koch asked the applicant if he intends to secure a building permit for the project if the variance is approved. Mr. Hood stated that he would secure a building permit if the variance is approved.

2008-08-A - Jeffrey and Denise Hood

Motion by Mr. Koch to **APPROVE** the variance request as presented. Seconded by Mrs. Owens.

Roll call vote: Mr. Glaros – YES; Dr. Stellers – NO; Mrs. Owens – YES; Mr. Koch – YES; Mr. Satterlee – YES.

There being nothing further to come before the Board, the meeting was adjourned at 7:45 P.M.

AUSTINTOWN BOARD OF ZONING APPEALS

DARREN L. CRIVELLI, ZONING INSPECTOR

APPROVED: _____
ROBERT SATTERLEE, Chair

DATED: _____