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Northfield Center Township Board of Zoning Appeals

Public Hearing

9/8/22 - 7:00PM - CONTINUED FROM 5/19/22

Liberty Valley Church, 9851 Olde Eight Rd.

I CALL TO ORDER-OPEN MEETING:

Time: 7:00PM By: Vern Rudder, Chair.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

II Application:

Mr. Rudder explained how the BZA would address each issue separately.

Pastor Tauring said there is usage data on the most recent site plan; 178 parking spaces, 2 phase parking is indicated to provide 245 spaces, 7 for ADA requirements.

Mr. Romanik asked what the current parking be without phase 2 parking.

Pastor Tauring said 178, the required amount.

Mr. Lamb said that parking, even if being done later, is normally required to be shown on the plan.

Mr. Rudder asked if all 245 spaces are being put in now.

Pastor Tauring said he wasn't planning on it but could if needed.

Mr. Lamb verified that Mr. Smith was a licensed architect taking care of the building but not the site.

Ms. Clark asked about the islands that were discussed previously.

Pastor Tauring said they were on the landscaping plan.

Mr. Lamb felt that a lot of trees will come down to provide for the berm.

Pastor Tauring said no, half of the berm already exists.

Mr. Lamb showed Pastor Tauring, on the site plan, how he figured out what needed to come down, and how he marked it on the site plan.

Pastor Tauring said some of the figures were incorrect. He wants to keep as many trees and bushes as possible.

Mr. Lamb felt that if trees were left there, and some evergreen trees were planted along the edge of that tree line, that would take care of wintertime issues.

Mr. Romanik said the buffer must incorporate trees and shrubs and be effective in winter and summer. There are some choices for combinations.

Mr. Rudder suggested making a condition that the landscaping on the proposed berm be pursuant to code.

Ms. Clark asked about the placement of the dumpsters.

Pastor Tauring said they are on the backside of the building, will then be on other side of the building.

Jason Dodson said future parking spaces should be marked as future spaces on the site plan at the table that the BZA and applicant are discussing /reviewing right now. This copy can be the official site plan.

Ms. Clark also would like to have previously permitted spots marked on the site plan, current non-permitted spots and which spots don't exist yet marked on the plan as well.

Mr. Rudder said that according to previous conversations with Inspector Saunders, a parking diagram is needed to show compliance.

Ms. Clark verified that the addition will be used as a church, and that a 3-foot height variance is being requested.

Mr. Rudder reminded the board that in 2015 when the original church was built, a 3-foot variance was granted for the total height of 38 feet for the original building.

Mr. Romanik said the setback variance for the addition would be an additional variance of 43 feet.

Mr. Dodson suggested maintaining a 45-foot setback.

III CLOSING OF OPEN SESSION:

Ms. Clark moved to close the Open Session at 7:32 pm.

Seconded by Mr. Lim.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

IV BOARD OF ZONING APPEALS DISCUSSION:

Mr. Lim felt the previous variance granted on height seemed straight forward; it was granted for 38 feet. If the setback is the same as previous setback given, no issue. He questioned how the parking space inaccuracy comes in to play with the Conditional Use request.

Mr. Romanik agreed with Mr. Lim. The Southern border of the property is heavily wooded; he would like it to be maintained and evergreens added.

Mr. Lamb agreed with Mr. Romanik about the evergreens being added along the tree line.

Ms. Clark asked if there would be a timeline for construction of the new addition.

Mr. Romanik said the permit is good for 9 months. The applicant would also need to get County permits as well.

Mr. Rudder said an updated site plan with appropriate parking marked would have to be submitted.

Mr. Rudder said the BZA granted a Conditional Use Permit 7 years ago for a church. He saw no reason not to grant it again, same for the 3-foot height variance and for the 45-foot setback variance at the South side of the property.

Ms. Clark moved to grant the applicant a Conditional Use Permit for a church addition at 9851 Olde Eight Rd., Northfield Center OH as submitted in the plans with the following conditions:

1. The applicant will submit an updated plan designating the phase 1 & 2 parking.
2. The applicant shall construct 182 parking spaces and will be verified by the Zoning Inspector.
3. No other buildings will be constructed on the property.
4. The applicant will adhere to Section 430.04 of the Northfield Center Township zoning code regarding screening and buffering.
5. The property will not be used as a live-in residence.
6. The latest plans submitted as of 9/8/22 will be attached, and site lighting has to be to code regarding type and style.

Seconded by Mr. Romanik.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

Ms. Clark moved to grant a 3-foot area variance on the height of the addition.

Seconded by Mr. Lamb.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

Ms. Clark moved to grant the applicant a 45-foot side setback variance for the addition to the Sothern property line.

Seconded by Mr. Lim.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

Mr. Romanik moved to re-open the Public Session at 8:04 pm.

Seconded by Ms. Clark

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

OPEN SESSION CONTINUED:

Mr. Rudder verified a violation letter dated 5/16/22 was sent to Liberty Valley Church from Inspector Saunders, re: gravel driveways/walkways must be asphalt, not gravel, and the walkway was in a riparian area. A permit application was then filed for a permit and variance upon receipt of the letter. No site plan or riparian assessment was filed at that time. In August, a site plan was submitted, and on July 21, 2022, Northfield Center Township received a copy of a letter that was sent to Liberty Valley from Summit Soil & Water requesting the driveway/walkway be removed and the area be revegetated.

Pastor Tauring said the regulations adopted by NCT were from Summit Soil & Water. They state no prior approval is needed for a nature viewing area or a pervious pathway. He submitted the permit application because Inspector Saunders told him to file for a permit and the variance can be sought.

Mr. Rudder verified at the last meeting that the Pastor's attorney cited Section 937.06 A -1, regarding permitted recreational uses with pervious materials. It was the church's position that they do not need to come before the BZA because of that section. Asked if the Pastor had been in contact with Summit Soil & Water on this issue since the July letter.

Pastor Tauring said yes, but Summit Soil & Water did not follow up since he sent the last email quoting the above-mentioned regulations.

Mr. Rudder said that Summit Soil & Water believes gravel is impervious, and the Pastor feels it is pervious.

Mr. Dodson said there are 2 separate issues: the requirement under our zoning code that requires asphalt and the riparian ordinance that prohibits certain activity in the riparian area. Summit Soil's position is that an asphalt or gravel driveway are both impervious surfaces, neither one is permitted within a riparian area.

Mr. Lim questioned whether or not the Pastor can revoke his request for a permit if he believes it's not necessary.

Mr. Rudder said he could do that, but then he needs to work it out with Summit Soil & Water.

Mr. Dodson said the BZA has the authority to grant a variance from Chapter 937 of the Summit County codified ordinance. If a variance was granted, the issue with Summit Soil goes away.

Mr. Rudder asked if the applicant wanted to withdraw his application.

Pastor Tauring said he will not withdraw the application.

Mr. Dodson said the first question the BZA would need to consider is will a variance for a path in the riparian area be granted.

Mr. Rudder asked how wide the pathway was and how much is in the riparian area.

Pastor Tauring said 9 feet and shrinking, and about 25 feet is in the riparian area.

Mr. Lamb said the drawings show half of the path is about 12 feet wide and the riparian is about 75-80 feet wide.

Mr. Lim asked if the pathway will be used for gardening vehicles.

Pastor Tauring said most people just walk to the area, but elderly people can't.

Mr. Lamb asked if the Pastor knew about what was allowed in riparian areas from building in 2015?

Pastor Tauring said the regulations that were adopted did not require prior approval.

Mr. Romanik said that Summit Soil's letter stated that an assessment still needs to be done prior to an addition to the building; has an assessment been applied for?

Pastor Tauring said no, they had a water delineation done.

Mr. Lamb verified that the 75 feet crossing the riparian area is what is to be considered.

Ms. Clark moved to close the Open Session at 8:38 PM.

Seconded by Mr. Lim.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

V BOARD OF ZONING APPEALS DISCUSSION:

Mr. Lim was frustrated because both Summit Soil and our Zoning Inspector are saying if the BZA does something, they will stop being involved. The BZA is being asked to determine if what is impervious or not.

Mr. Lamb said Summit Soil & Water are the experts that the BZA should rely on.

Mr. Rudder said with regards to the township, asphalt is required. Also, is gravel considered pervious or impervious? The BZA has to interpret 537.06 A -1 as to whether or not the applicant's argument applies.

Mr. Dodson said the board could determine whether or not this is a pervious surface and complies with the code; or, the BZA could go with Summit Soil's interpretation of an impervious surface and still permit the use within the riparian area.

Ms. Clark was not inclined to disagree with Summit Soil. This is an impervious surface; she would not be inclined to overrule Summit Soil or grant a variance. This riparian area should be preserved as much as possible.

Mr. Lamb felt that Summit Soil & Water are the experts, BZA should follow their lead. He agreed with Ms. Clark.

Mr. Romanik agreed with Summit Soil that the walkway should not be in a riparian area.

Ms. Clark moved to deny the appeal of the applicant regarding the violation letter dated 5/16/22, re: 9851 Olde Eight Rd., violation #1 regarding construction of the new gravel driveway.

Seconded by Mr. Lim.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

Ms. Clark moved to deny the request for a gravel drive within the riparian area as was denied by Summit Soil & Water.

Seconded by Mr. Lamb.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

Ms. Clark moved to grant a variance to allow for a gravel drive not to exceed 12 feet in width or 700 feet in length, with the exception of the riparian area which cannot be gravel or some other impervious surface. The riparian area will be determined as established in Section 937 of the Summit County Codified Ordinance.

Seconded by Mr. Lim.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

Ms. Clark moved to re-open the Public Session at 9:08 PM.

Seconded by Mr. Romanik.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

VI APPROVAL OF MINUTES:

1. Mr. Lim moved to waive the reading and approve the minutes of the Public Hearing on 8/4/22-79 Hazel Dr. Seconded by Ms. Clark.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

2. Mr. Lim moved to waive the reading and approve the minutes of the Public Hearing on 8/4/22-238 Hazel Dr. Seconded by Mr. Romanik

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

3. Mr. Lim moved to waive the reading and approve the minutes AS AMENDED of the Public Hearing on 8/11/22-26 W. Twinsburg Rd. Seconded by Mr. Romanik.

Roll Call: V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

4. Ms. Clark moved to waive the reading and approve the minutes of the Public Hearing on 8/11/22-145 W. Aurora Rd. Seconded by Mr. Romanik.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye.

VII OTHER BUSINESS: None.

VIII MOTION TO ADJOURN:

Ms. Clark moved to adjourn at 9:19 p.m.
Mr. Lim seconded the motion.

Roll Call:

V. Rudder, aye; J. Romanik, aye; Lisa Clark, aye; G. Lim, aye; J. Lamb, aye;

Respectfully Submitted,

Vern Rudder, Chair

Date

Judy Flauto, Township Secretary

Date