

AV04-160517

**Ken Fagan  
PO Box 180  
Newbury, OH 44065**

**site: 14361 Chagrin Woods Dr.**

The Newbury Township Board of Zoning Appeals public hearing was called to order by Mr. Lou Tomsic Chairman, a 7:37 p.m. on May 17, 2016 with board members Mary Lee Brezina, Ed Meyers, Karen Endres and Chris Yaecker present. All in attendance who wished to speak at this hearing were duly sworn and asked when testifying to state their name and confirm being sworn in. Mr. Tomsic said the BZA procedures would be followed and that the hearing was being recorded.

**Ken Fagan requests an Area Variance to construct a detached 256 sq.ft. accessory building to store yard and garden equipment 1.5 ft from the north property line (per Art. V, Sec. 5.05, vs. req'd 30 ft. side setback) on parcel 23-186457 at 14351 Chagrin Woods Dr. in the R-1 Residential District.**

**Mr. Joyce shared the aerial photo showing the heavily wooded site plan.**

**Ken Fagan said he had no other options to place the accessory building. The angled property line limited access from the oval as did the gas line location in the grassy area next to the driveway. The chosen accessory building location would remove the smallest trees from this wooded site.**

**With both kids now driving, the garage was fully in use – a new accessory building was needed to store yard and garden equipment. The new building would maintain the same exterior look as the house.**

**The neighbor's property was wooded within the 75 foot road setback.**

**Karen Endres noted that Mr. Zaller, the neighbor to the north was here earlier. When he saw the site plan he had no objections and left.**

**Ken Fagan said he had shown the plan to Mr. & Mrs. Corkwell his neighbors to the south, who said they had no objections to his plan.**

**Lou Tomsic asked whether there would be any electric service – none at this time.**

**Karen Endres noted the building floor would have a gravel base located about a 1 foot drop from the driveway.**

**Karen Endres asked whether Mr. Fagan had found the pins locating the property lines. He said he had originally placed stakes at the rear property lines.**

**Ms. Endres noted there was no margin for error with the building sited 1-1/2 ft. from the property line. Mr. Fagan said he would place the building as close as possible to the gas line.**

AV04-160517

**Ken Fagan  
PO Box 180  
Newbury, OH 44065**

**site: 14361 Chagrin Woods Dr.**

**Discussion continued regarding the wooden stakes in the woods vs. the visibility of the metal survey pins. Ed Meyers stated that it was for Mr. Fagan's own protection to establish the survey lines as the BZA cannot be a party to any property line encroachment.**

**Mr. Fagan described the limiting factors of the gas meter location, the well and septic placements, the swampy area and the ravine in the rear. He said the mature trees prohibit placement of the new building adjacent to the garage.**

**Mr. Fagan said he had hoped to begin work in March but was now behind schedule. Ms. Brezina said she could see the various siting limitations Mr. Fagan faced, especially the ravine in the rear.**

**The board discussed granting approval contingent on a survey to locate the actual side property line. Ed Meyers and Karen Endres asked to add the actual house setback distance from the survey line to the site plan.**

Mr. Tomsic called for a vote. Mr. Meyers moved to grant the area variance for location of the accessory building no closer than 1-1/2 feet from the survey established pins for: 1) north side property line, 2) gas line location marked and 3) distance of house from the side lot line shown on the site plan; Karen Endres seconded the motion. Mr. Tomsic said a yes vote would grant the variance.

Ed Meyers	yes
Chris Yaecker	yes
Mary Lee Brezina	yes
Karen Endres	yes
Lou Tomsic	yes

Mr. Tomsic advised Mr. Fagan he could obtain a zoning permit from Mike Joyce with confirmation of the established north side survey pins 3 conditions and building corner site stakes.

Mr. Tomsic read to the Appellants and audience, "Within 30 days after service of the minutes granting your request, if someone wishes to challenge this decision through the court, he or she may. The required permit can be issued once all requirements regarding this application are satisfied, although if you plan construction it is recommended you wait the 30 days before proceeding. The challenge could reverse or negate our decision. At the time you receive your permit you must also comply with all other requirements of Newbury Township zoning".

The board agreed to hold hearings on the first and third Tuesday of the month. These minutes will be signed on June 7, 2016.

AV04-160517

**Ken Fagan**  
**PO Box 180**  
**Newbury, OH 44065**

**site: 14361 Chagrin Woods Dr.**

Mr.Tomsic adjourned this BZA hearing at 8:05 p.m.

Marge Hrabak Secretary

6/7/16: Findings of Fact were added:

- a) There is value of the lot with or without the variance,
- b) The variance is substantial at 1-1/2 ft. setback from W lot line,
- c) There is no substantial impact on the neighborhood,
- d) There is no affect on delivery of government services,
- e) Applicant says he was unaware of the zoning restrictions,
- f) The applicant’s predicament could be obviated through some method other than a variance but other options are restricted by typography & inconvenience,
- g) The spirit and intent could be observed by granting the side setback; there were no objections from the audience.

Signatures of the Newbury Board of Zoning Appeals:

\_\_\_\_\_  
Lou Tomsic, Jr., Chairman

\_\_\_\_\_  
Chris Yaecker,

\_\_\_\_\_  
Karen Endres,

\_\_\_\_\_  
Ed Meyers, V. Chairman

\_\_\_\_\_  
Mary Lee Brezina

\_\_\_\_\_  
Marge Hrabak, Sec’y BZA  
Date: \_\_\_\_\_