

UV01-171219

Gene Williams

13791 Bass Lake Rd.

Newbury, OH 44065

The Newbury Township Board of Zoning Appeals public hearing was called to order by Mr. Lou Tomsic Chairman, at 7:30 p.m. on December 19, 2017 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. He verified that notices were advertised and mailed. All in attendance were sworn in.

Gene Williams requests a Use Variance to continue use of this originally built as a two family home, surrendered after 2 year discontinued use, in a current single family district (per Art V, Sec. 5.01) on parcel 23-348200 at 11613 Portlew Rd. in the R-1 Residential District.

Mr. Tomsic asked Mike Joyce to clarify the present zoning status of the parcel. Mike said that the house surrendered its grandfathered duplex status because the structure had not been occupied for the previous two years.

Mr. Tomsic asked the applicant to state his case. Mr. Williams said the house had been used as a 2 family since he bought the property in 1962 with the barbershop opened 1 day per year for the past 2 years to retain its "grandfathered" status. He doesn't remember receiving any such information regarding the duplex. He originally bought the property as a 2 family rental. Since he retired 3 years ago he has completely remodeled both suites with all new separate entrances and utilities in preparation for sale. He said he now has a prospective buyer that uncovered two problems.

Karen Endres asked about the size of the two lots. Mr. Williams replied .97 & .6 acres. Ms. Endres questioned whether this included road right-of-way but settled on approximately 1.5 acres for the combined lots. She acknowledged that Newbury zoning began in 1948 when the house was a legal duplex. Mr. Joyce said that zoning had changed to surrender the grandfathered status if not lived in for 2 years or more. He confirmed that zoning did not permit the barbershop conversion into a 3rd rental unit. Mr. Yaecker said the barbershop had been connected to the house since the State relocated the road in 1956.

Mr. Williams said he bought the duplex in 1963 and he moved to Bass Lake Rd. He said he retired 3-1/2 years ago and completely remodeled the duplex in that interim in preparation for selling. He has had a prospective buyer – contingent on their house sale that never happened. He has temporarily rented the upstairs suite to a single guy – with lease term contingent on prospective sale as a fully remodeled duplex with all separate utilities except for a single septic system.

UV01-171219
Gene Williams
13791 Bass Lake Rd.
Newbury, OH 44065

Mr. Williams said in 1963 Blaine Kaufman replaced the 1888 wooden box with a new septic system. Mr. Meyers asked how the County treats this septic system. Mr. Williams acknowledged the system would need to be upgraded.

Mr. Tomsic said that when the property ownership transferred, a septic system for the barbershop would be under EPA rules, not Geauga County Health Dept. Mr. Meyers asked to clarify Sherman as the owner's name on the deed. Mr. Williams agreed his name was Sherman but everyone knows him as Gene.

Mr. Tomsic asked for any comment from the audience. Robert Harmeling said he had concerns about this septic system and the status of "abandoned" buildings that now produce no tax revenue. Mr. Tomsic said there had been grants for the township to remove blighted structures but was not sure if any were still current.

Mike Joyce confirmed that the "grandfathered" duplex had been surrendered as the structure had not been lived in for over 2 years and now was zoned single family. Mr. Williams said it would be difficult to restore the building to a single family as the utilities are now separate.

Ms. Endres clarified that the zoning rules had changed (the 2 years rule) prior to Mr. Williams remodeling start about 5 years ago – the property is now zoned single family.

Mr. Tomsic asked the board to consider the standards that must be met for a Use Variance.

a: whether there are conditions unique to this lot, and not ordinarily found in the same zoning district? A lengthy discussion followed regarding the changed zoning status of this house that had been used as a duplex for more than 80 years.

b: did the applicant create these conditions? Applicant says he was unaware of the two year time limit for remodeling his rental units.

c: whether the variance would adversely affect the rights of adjacent owners? Neighbors have concerns over use of rental property.

d: whether the variance would affect the public health, safety or general welfare? The house would continue its same use at the same address.

e: Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance? The zoning change to single family status occurred over 25 years ago.

f: Whether the requested variance is the minimum action which would afford relief to the applicant? Yes

g: What other commercially viable use of the lot could be made within this zoning district? The barbershop raises the value of the house.

Ms. Endres continued general discussion regarding remodeling and other business that have received variances and/or judgment entries along Rt. 87. Special

UV01-171219
Gene Williams
13791 Bass Lake Rd.
Newbury, OH 44065

requirements for in-law suite usage were reviewed as well. She also addressed selling both lots together via an Affidavit of Fact that the applicant could initiate at a cost of about \$28. Mr. Joyce said the combined lots would be less non-conforming in R-1 district.

At 8:15 Mr. Tomsic asked the board to convene in executive session.
At 8:25 the board returned and resumed the BZA hearing.

Mr. Tomsic told Mr. Williams that a continuance of this hearing was possible: at no charge if done by the BZA specifying a new date but the board finds its “hands tied, next to impossible” trying to meet the standards required to grant a Use Variance. If the applicant requests withdrawal of the variance request it results in a “clean slate – never been here” opportunity to reapply if new evidence is available. Mr. Williams asked “what new evidence”? – “no idea”. Mr. Tomsic said the board recommended Mr. Williams withdraw his Use Variance request with the opportunity to reapply.

Mr. Williams said he withdraws his application.

The BZA board unanimously accepted Mr. Williams’ withdrawal request.

Mr. Tomsic adjourned the hearing at 8:40 p.m.

Marge Hrabak Secretary

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: _____