

**CHARTER TOWNSHIP OF UNION**  
**Zoning Board of Appeals**  
**Regular Meeting Minutes**

A special meeting of the Charter Township of Union Zoning Board of Appeals was held on July 11, 2023, at 7:00 p.m. at the Union Township Hall.

**Meeting was called to order at 7:00 p.m.**

**Roll Call**

Present:

Barz, Buckley, Coyne (alternate), Loose, and Presnell

Excused:

Brown (alternate)

**Others Present**

Rodney Nanney, Community and Economic Development Department Director, Peter Gallinat, Zoning Administrator, David Puskar, Township Attorney, and Tera Green, Administrative Assistant

**Approval of Agenda**

**Coyne moved Barz supported to approve the agenda as presented. Vote: Ayes: 5. Nays 0. Motion carried.**

**Correspondence / Board Reports**

None

**Approval of Minutes**

**Loose moved Coyne supported to approve the May 3, 2023 regular meeting minutes as presented. Vote: Ayes: 5. Nays 0. Motion carried.**

**Public Comment: Restricted to (3) minutes regarding issues not on this Agenda.**

Open – 7:02 p.m.

No comments were offered.

Closed – 7:02 p.m.

**New Business**

**A. Election of Vice-Chair**

**Loose moved Buckley supported to appoint Rick Barz as Vice-Chair of the ZBA. Vote: Ayes: 5. Nays 0. Motion carried.**

- B. PAZ23-01 Administrative Appeal** – Request from William Ervin to appeal the denial of the PLD23-0023 land division application by the Zoning Administrator, Peter Gallinat, to split approximately 10.10 acres from the northeast corner of their 45.73-acre parcel number 14-016-10-001-06. The new parcel is intended for the construction of a one-family residential home that would access the end of Sandstone Drive. The parcel is located in the SW ¼ of Section 16 and zoned R-2A (One and Two Family, Low Density Residential), B-4 (General Business), and OS (Office Service) zoning districts [Legal Description: T14N R4W SECTION 16 NW 1/4 OF SW ¼]. The land division as proposed did not satisfy the standards of Section 7.17.B. (Streets, Roads, and Other Means of Access/Public Access

Required/Minimum Road Frontage) that the front lot line of all lots shall abut onto a publicly dedicated road right-of-way, and that the required frontage on an approved road right-of-way shall be equal to or greater than 100.0 feet in length, which is the minimum lot width for the R-2A zoning district in which the proposed lot would be located.

- a. Updates from staff and the applicant
- b. Public Hearing
- c. Questions from Board of Appeals members
- d. Board of Appeals deliberation and determination as to whether or not the Zoning Administrator's action:
  - o Constituted an abuse of discretion? (YES/NO)
  - o Was arbitrary or capricious? (YES/NO)
  - o Was based upon an erroneous finding of a material fact? (YES/NO)
  - o Was based upon an erroneous interpretation of the Zoning Ordinance? (YES/NO)
- e. If the Board of Appeals answers YES to any of the above, then the Zoning Administrator's action is reversed and the Board of Appeals then *"may, reverse or affirm wholly or in part; modify the order, requirement, decision or determination; or make such order, requirement, decision, or determination as ought to be made, and may issue or direct the issuance of a permit. To that end, the (Board of Appeals) shall have all of the powers of the (Zoning Administrator)."*
  - i. Board of Appeals review of the PLD23-0023 land division application for compliance with applicable Zoning Ordinance standards.
  - ii. Board of Appeals deliberation and action on the land division application (approve, deny, or postpone action with a request for additional information)
  - iii. Board of Appeals determination of compliance with Zoning Ordinance standards:
    - o Meets or exceeds Section 3.8 (R-2A District) standards for a minimum lot width of 100 feet and a minimum lot area of 14,00 square-feet? (YES/NO)
    - o Meets or exceeds the Section 7.17.B. (Streets, Roads, and Other Means of Access/Public Access Required/Minimum Road Frontage) standards that the front lot line of all lots shall abut onto a publicly dedicated road right-of-way, and that the required frontage on an approved road right-of-way shall be equal to or greater than 100.0 feet in length, which is the minimum lot width for the R-2A zoning district? (YES/NO)
  - iv. Board of Appeals action on the land division application (approve, deny, or postpone action with a request for additional information)

Chair Presnell, wanting full transparency, informed the Board that she lives directly across from the parcel in question, which could potentially be a conflict of interest. Deliberation by the Board.

**Buckley moved Barz supported that the Board finds no conflict in Chair Presnell's participation. Roll Call Vote: Ayes: Barz, Buckley, Coyne, and Loose. Nays 0. Abstained Chair Presnell. Motion carried.**

Nanney introduced the PZA23-01 Administrative Appeal of the denial of the land division application PLD23-0023. The land division as proposed did not satisfy the standards of Section 7.17.B (Streets, Roads, and Other Means of Access/Public Access Required/Minimum Road Frontage). The Board is here today to hear and decide if the Zoning Administrator correctly applied and enforced the Zoning Ordinance as related to this

application. If the Board reverses the administrative decision, they will then act as Zoning Administrator and make a determination on application PLD23-0023.

Marc McKellar, Kuhn Rogers PLC Attorney, representative of Mr. Ervin, gave the applicant's perspective in the interpretation of the language in the Zoning Ordinance.

**Public Hearing**

**Open: 7:28 p.m.**

Patricia Moore, 2396 Sandstone Dr, spoke in favor of the land split for the Ervins and would love to have them as neighbors.

**Closed: 7:30 p.m.**

Township Attorney, Dave Puskar from Braun Kendrick, made introductory comments based on the content of his memo dated June 30<sup>th</sup> provided in the packet. Mr. Puskar strongly encouraged the board as they deliberate on each question listed on the agenda, to pay attention to what the standards are and to make a clear record of what the findings are and why.

Deliberation by the Board.

Did the Zoning Administrator constitute an abuse of discretion?

**Barz moved Buckley supported that the Zoning Administrator did not constitute an abuse of discretion. Roll Call Vote: Ayes: Barz, Buckley, Loose, and Presnell. Nays: Coyne. Motion carried.**

Were the Zoning Administrator's actions arbitrary or capricious?

**Buckley moved Barz supported that the Board deems that the Planning Administrator's actions were not arbitrary or capricious. Roll Call Vote: Ayes: Barz, Buckley, Coyne, Loose, and Presnell. Nays: 0. Motion carried.**

Were the Zoning Administrator's actions based upon an erroneous finding of material fact?

**Buckley moved Coyne supported that the body finds there was no erroneous findings of material fact. Roll Call Vote: Ayes: Barz, Buckley, Coyne, Loose, and Presnell. Nays: 0. Motion carried.**

Were the Zoning Administrator's actions based on an erroneous interpretation of the Zoning Ordinance?

**Coyne moved Barz supported that the Zoning Administrator's actions were based on an erroneous interpretation of the Zoning Ordinance. Roll Call Vote: Ayes: Barz, Coyne, Loose, and Presnell. Nays: Buckley. Motion carried.**

**\* 8:30 p.m. Chair Presnell left the meeting and turned the meeting over to the Vice Chair Barz.**

The Board reversed the Zoning Administrator's action and acted collectively as the Zoning Administrator to review the PLD23-0023 land division application for compliance with the applicable Zoning Ordinance standards. Board deliberation on the land division application.

**Coyne moved Loose supported that the PLD23-0023 Land Division Application does meet or exceed Section 3.8 (R-2A District) standards for a minimum lot width of 100 feet and a minimum lot area of 14,000 square-feet. Roll Call Vote: Ayes: Barz, Coyne, and Loose. Nays: Buckley. Motion carried.**

**Coyne moved Loose supported that the PLD23-0023 Land Division Application meets or exceeds the Section 7.17.B (Streets, Roads, and Other Means of Access/Public Access Required/Minimum Road Frontage) standards that the front lot line of all lots shall abut onto a publicly dedicated road right-of-way, and that the required frontage on an approved road right-of-way shall be equal to or greater than 100.0 feet in length, which is the minimum lot width for the R-2A zoning district. Roll Call Vote: Ayes: Barz, Coyne, and Loose. Nays: Buckley. Motion carried.**

**Coyne moved Loose supported to approve PLD23-0023 Land Division Application from William Ervin to split approximately 10.10 acres from the northeast corner of their 45.73-acre parcel number 14-016-10-001-06. Roll Call Vote: Ayes: Barz, Coyne, and Loose. Nays: Buckley. Motion carried.**

**C. PZBA23-0001 Zoning Ordinance Interpretation – Request from William Ervin for an ordinance interpretation to determine if a designated but not constructed right-of-way meets the standards of the “approved road right-of-way” required in Section 7.17.B. The proposed PLD23-0023 land division is near where Sandstone Drive ends in a “T” Turn-around. Where Sandstone ends there is a designated right-of-way for the extension of E. Broadway. This designated right-of-way for E. Broadway is not constructed and is not planned to be constructed as part of the land division.**

- a. Updates from staff and the applicant
- b. Public Hearing
- c. Questions from Board of Appeals members
- d. Board of Appeals deliberation
- e. Board of Appeals Action to *“decide questions that arise in the interpretation of the text of the Zoning Ordinance in a manner consistent with the intents and purposes stated in the Ordinance, and in such a way as to preserve and promote the character of the zoning district in question.”*
  - o Motion to take no action, finding that there is no question that requires an interpretation.
  - o Motion to interpret Section 7.17.B of the Zoning Ordinance in a way that a designated but not constructed right-of-way [DOES] [DOES NOT] meet the standards of the “approved road right-of-way” requirement for calculating minimum required road frontage for any new lot created by land division.

Marc McKellar, Kuhn Rogers PLC Attorney announced that, due to the approval of PLD23-0023 Land Division Application, the applicant has chosen to withdraw the PZBA23-001 Zoning Ordinance Interpretation application. No further action was taken by the Board on this application.

### **Other Business**

#### **Extended Public Comment: Restricted to 5 minutes regarding any issue.**

Open: 8:43 p.m.

No comments were offered.

Closed: 8:44 p.m.

**Final Board Comment**

Barz – Acknowledge that it was a difficult meeting for the new board and appreciates the patience of everybody that was here.

**Adjournment**

Vice-Chair Barz adjourned the meeting at 8:45 p.m.

**APPROVED BY:**

  
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Eric Loose – Secretary

*(Recorded by Tera Green)*