

**Board of Zoning Appeals Meeting**  
**March 15, 2012**  
**ZA-03-12**

Members/Attendance:	X	Hank Grover
	X	Jim Burgham
	N/A	Al Franceschelli
	N/A	Bill Custer
	X	Holly Grant
	X	Michael Johnston
Also in attendance:	X	Patty Magazzino, Assistant Zoning Inspector
	X	Michele Richards, Recording Secretary

Hank Grover called the meeting to order at 7:03 p.m.

**1st Order of Business:**

Hank Grover stated that the first order of business is to approve the minutes from the meeting held on February 16, 2012. Jim Burgham made a motion to accept the minutes from the February 12, 2012 meeting. All members were in favor. Minutes approved.

**2<sup>nd</sup> Order of Business:**

*Case #ZA-03-12 – A request by Marshall Winkler to obtain relief from minimum lot width for his vacant parcel known as number 35-045-0-043.00-0, which is 1.80 acres in size. This parcel is landlocked and abuts parcel number 35-045-0-042.00-0, which is 3.00 acres in size and known as 8021 North Lima Road. The plan is to make ingress/egress to the landlocked property by replatting the 3.00 acre lot to allow for it. Both parcels are known as Great Lot 9, and are located in a (R-1) Residential-1 Zoning District, and are located in Poland Township, Poland, Ohio.*

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. County Map
6. Property Description
7. Site Plan

**Marshall Winkler**  
**8021 North Lima Road**

Hank asked Winkler if he had any further comments or information to add.

Winkler stated that the requested 20' right-of-way is arbitrary because it is a natural border with the pine trees. Winkler stated that his house went up for sale yesterday (March 14, 2012) and if he does not provide some means of egress or access to the back piece of property, he will have to give it away. A potential buyer will say that it is landlocked, therefore, it is of no value and they will not want it, and they will only want to buy the front piece of property. Winkler stated it is beautiful piece of property. The

**Board of Zoning Appeals Meeting**  
**March 15, 2012**  
**ZA-03-12**

additional piece of property is also a bargaining chip for a potential buyer. Winkler feels that when he does sell his house, the buyer would want to purchase the additional piece of property and nothing will ever come of it.

Grover explained that the Winkler's deed reads as though the property is one piece. There are two pieces; one is 1.80 acres and is the front piece that the house sits on. Both properties have permanent parcel numbers. Grover stated that the back piece (1.80 acres) can be sold at any time to anybody. There is no access to this property, other than across the Winkler's property. The Winkler's can provide an easement to the back piece without any approvals from the Board or from the County or from anyone. Grover stated that there will not be any frontage for that piece of property. If the Board approves this variance, it would grant the use of the property as a buildable lot.

Holly Grant asked Winkler when the deeds were combined because the deed does have both properties together as one. She also asked if it was like that when he purchased the property? Winkler replied yes. Holly stated to Winkler that he would have to create another deed and resurvey the back property as well as the front property because right now the properties are together. Winkler agreed.

Jim Burgham asked Winkler that if the house is sold tomorrow, being that both lots are under the same deed, would he have to re-deed the property? Winkler stated that is correct.

Hank Grover stated that the property would have to be re-surveyed.

Jim Burgham asked how the property was changed into two lots when the deed shows one property. Grover stated that you can follow the chain of the change of title and maybe at some point the regulations did not exist that allowed it to be this way. Grover stated that today this deed would not be correct. Holly asked if this deed were done today, would it be combined as one lot and would it be one parcel number? Grover stated that is correct.

Holly stated that the intent of the deed was to put both properties together in one lot. The intent was not to keep two separate lots, because based on the deed the properties are together. Grover stated that the property taxes are based on two separate parcels, so you would still pay taxes on two separate parcels.

Holly asked Winkler if he has approached the adjoining property owners about purchasing the property. Winkler stated no, they have approached him. Winkler stated he feels it is more important to sell the property that his home is on to use as a bargaining chip, before he goes to the neighbors to ask if they would be interested in purchasing the property. He stated that his neighbors have expressed an interest in purchasing the property.

Grover asked if anyone would like to speak in favor of this request. No one responds. Grover asked if anyone has any questions regarding this variance request.

**Dennis Rippel**  
**7780 Cliffview Drive**

Rippel asked the Board to see the location of the property in question on the map. The Board members showed Rippel the location of the property on the map.

**Board of Zoning Appeals Meeting**  
**March 15, 2012**  
**ZA-03-12**

Grover explained that only one house could be placed on the property in question and it would be very costly. If a house were to be built there, it would have to be tied into the sanitary sewer. There is a sanitary sewer on North Lima Road about two hundred (200) feet south of the Winkler's property.

Winkler had an engineering company draw up some plans about a year ago and asked Hank to review them. Hank stated that the sanitary sewer would have to be brought to the new house, at the cost of the builder or home owner. Then you would have to run a grinder pump from the house, through the valley, along the twenty (20) foot easement and out under the road and then tie into the sanitary sewer. This method is very costly.

**Mark Renstrom**  
**8059 North Lima Road**

Renstrom states he lives next door to where the actual right-of-way would come through the property. He stated he was the last house to tie into the sewer and is questioning if a twenty (20) foot easement is approved, where and how do the utilities come through? His concern with the easement is if the property is sold, how they would access the utilities and sewer.

**Denis Rippel**

Rippel spoke again and stated the property in question is a beautiful piece of land. It has a lot of trees and it was one of the reasons he purchased his property. There is a creek in back of the property. Rippel asked if there is an easement, would you have to place a bridge over the creek in order to have access to the lot.

Winkler replied that it would have to be on the other side, you cannot cross the creek.

Winkler stated in response to Renstrom's question, that he had septic and the County people tell him that he cannot build back there, unless you have money to tie into the sewer.

Patty Magazzino stated that possibly whoever buys the house will buy the additional property, or they may not want the additional property. She stated that Winkler is just trying to make it feasible for his selling to be able to make it accessible for ingress/egress if someone does want to purchase the additional parcel.

**Blake Rhein**  
**7746 Cliffview Drive**

Rhein asks if the lot is a buildable lot as it is now, or is it non-buildable? If it is non-buildable, would someone have to obtain a variance to build on the lot to have access to run the utilities? Burgham stated that that is the variance that Winkler is requesting, to allow the lot to be built on. Burgham explained that Winkler does not need the Board's approval for the easement, just for the variance.

Patty Magazzino asked Rhein what he meant that the lot is not a buildable lot, and does he mean due to square footage? Rhein stated he understood that a lot has to be a certain size in Mahoning County in order for it to be considered a buildable lot, and without the additional easement it is not considered a buildable size lot. Patty stated if the lot is pre-existing, you can build on it as long as you can meet the set back requirements. The reason that this lot is not buildable is because you cannot access it.

**Board of Zoning Appeals Meeting**  
**March 15, 2012**  
**ZA-03-12**

**Dave Kennedy**  
**7836 Cliffview Drive**

Kennedy asked if in Poland Township, there is a minimum lot size of one half an acre to build? Grover stated that it depends on if sanitary sewer is available. In this case, sanitary sewer is available and you would have to tie into it. The requirement is twenty thousand (20,000) square feet, with a minimum of one hundred (100) feet of frontage and that frontage is on a dedicated right-of-way, which there is none in this case. As far as granting variances, you have to look for a hardship. There is a hardship in this case; however, there are other issues that come into play. Kennedy asked if it would be possible to build a house on that lot. Grover stated it would be possible. Winkler would have to obtain a zoning permit, before you can get a sanitary permit or building permit. The first one is a zoning permit. Without the Board of Zoning Appeals granting this variance, it is not a buildable lot period. If the Board grants the variance, the owner would be able to obtain a building permit, then a sanitary permit, and so on.

**John Appel**  
**7816 Cliffview Drive**

Appel asked if the variance is granted, does Winkler have to go through this. If he sells the property to someone that wanted the whole thing, it is a mute point. Grover stated no, because the variance runs with the land, not to the Winkler's. Burgham stated that if a variance were to be granted, the new owner would still have the option.

Grover asked if anyone else would like to speak in regard to this case. No one responds.

Grover asked if there were any questions from the Board members.

Jim Burgham stated he is concerned with the way that the deed reads. At some point, the deed will have to be changed.

Holly Grant stated her concern is that the deed was not updated with the Planning Commission and through that process. According to the deed, it is one piece of property. There is no landlocked property. There may be a landlocked parcel number that is set up with the County, but there is nothing that is landlocked because it is all accessible through North Lima Road.

Hank Grover stated as it stands right now, if someone wants to buy all the property from the Winkler's, they would call in a surveyor to survey the land. The surveyor makes a map; the map has two parcels, each with its own parcel numbers. There are new descriptions written by the surveyor for each of those parcels. The descriptions are put on the deed, the Winkler's sign, and then it is recorded along with the map at the court house.

Holly Grant stated the deed is the conveyance of property, not the parcel map. It is the deed that speaks as far as what the property is. In this case, it is the 4.88 acres; there is not a landlocked property. She stated she is not in favor of granting the variance because in other situations we do require that lots be combined. She does not believe there are any difficulties because there is some interest from other property owners, so there are no practical difficulties that would require us to create a landlocked property, which really is not something as a zoning or township that we should encourage. She stated that Winkler has indicated it is mainly a financial reason to do this, to have a bargaining chip. Grant stated she does not feel that is enough to change our zoning.

**Board of Zoning Appeals Meeting**  
**March 15, 2012**  
**ZA-03-12**

Burgham asked Winkler if he has been receiving two tax statements from the County. Winkler stated yes. He stated there has never been an issue with the County. Burgham stated that in 1983 when Winkler purchased the property, a surveyor surveyed the property, established the lines, wrote up the description, and the description clearly defined it as one piece. The County never split it up on their maps and through their records. On the legal deed, it is one piece of property.

Grover asked if there are any other questions or comments. There being none, public discussion is now closed and discussion will be among the Board members.

Holly Grant stated she is not in favor of this variance. There is no practical difficulty and she feels the property can be sold together.

Grover stated that if the Board does not grant the variance, the Winkler's can still sell the piece of property that the house sits on. If the buyer does not want the other piece, Winkler can retain an easement for himself. Burgham stated that Winkler or whoever owns the other piece would then come back to the Board to request a variance to build on the property. Burgham stated he would rather grant the variance for something that you know will happen than just for the sake of being able to increase the property value, which comes back to the practical difficulty and we are not allowed to look at monetary issues as practical difficulty.

Hank Grover asked if there were any other questions or discussion. There being none, the following motion was made.

***Motion***

*Holly Grant made a motion in Case ZA-03-12 to deny the variance request. Jim Burgham seconded the motion.*

Voting:

Yes Holly Grant  
Yes Jim Burgham  
Yes Mike Johnston  
Yes Hank Grover

Motion carried.

Meeting adjourned at 8:02 p.m.

Submitted by:  
Michele Richards/Recording Secretary

cc: Trustees (3)  
Board of Zoning Appeals (6)  
Zoning Commission (6)  
J. Granitto (1)  
File (1)