

BOARD OF ZONING APPEALS HEARING

SEPTEMBER 14, 2022 @ 7:00 PM

BZA #2022-011

1. Miscellaneous chatting amongst the board and Melissa about swearing in Brett
2. Gary: okay, we have BZA 2022-011 for Benjamin Kelly, step forward please
3. Remy: if you could sit and talk into the microphone, please
4. Ben: alright, I can do that I pretty tall
5. Gary: that just makes it easier for the secretary, now stand back up
6. (laughing)
7. Gary: the testimony you are about to give is the truth?
8. Ben: it is
9. Gary: thank you, please state your name and address
10. Ben: Benjamin P. Kelly, address is 5688 South Prospect Street, Ravenna
11. Gary: okay thank you and you want to present your case here this morning or this evening
12. Ben: I am applying for a variance on an additional structure to a single-family residence that is located approximately 30-40ft behind the current residence and I am also applying for a variance to build a 3200SF pole barn on the property as well used for personal purposes
13. Gary: okay so let's address your variance request first and um
14. Ben: so, there is a house located behind, it's part of the parcel map, it was originally built, I couldn't tell you why, there is no bathroom and there is no living area, however there is a full kitchen in it, and I'm looking to try to get the variance to convert it back to a single-family dwelling as a rental property um but I
15. Gary: that's the building in the center?
16. Ben: the building in the center that's correct, it would be a one-bedroom house and we would be adding you know, new electric, new plumbing, new HVAC and then improving the property as it lies.
17. Gary: that is existing now?
18. Ben: it is existing now
19. Remy: is there currently city water and city sewer?
20. Ben: the front property has city water and city sewer, right out front
21. Gary: but there are no utilities in this second dwelling?
22. Ben: UHH there is electric currently, however it is old and decrepit and I would like to update that
23. Gary: what about the sewage
24. Ben: the sewage should be there because there is a full kitchen, but there is no bathroom in the house
25. Gary: and where is your kitchen drains to
26. Ben: UUHHH that I don't know I haven't gotten into that far yet
27. Gary: and you are going to put a bathroom in there?
28. Ben: yes
29. Gary: so, you are going to have to have a sewer line
30. Ben: yes
31. Gary: there is no septic system on this property
32. Ben: there is not
33. Remy: so where is the water coming from the cottage then
34. Ben: it has to be tied into the main house that is in the front
35. Remy: there is not meter or anything

36. Ben: there is no meter, no
37. Gary: what are you going to use that for
38. Ben: I am going to use it as a single, a one-bedroom rental, and my current tenant that is in the front house, it's almost like a father-in-law suite where somebody, like his father is living with him now and he has talked to him about moving him back to the back house, they would all still be on the property but living at 2 different households
39. Gary: (speaking to board members) I did not write any notes for this one, so that means I must have not seen anything out of the ordinary. While we are looking, Brett (has him stand and raise right hand) the testimony you are about to give is the truth
40. Brett: yes of course it is
41. Gary: what is your comment on this variance request
42. Brett: on my notes here, tonight we were addressing my understanding was a dual rental property, non-owner-occupied Mr. Kelly lives in the city, has a contemporary ranch house in the front and I'll guess a 1920s cottage?
43. Ben: actually, the parcel map said it was built in 1950
44. Brett: 50's cottage is the back, he would like to renovate the cottage, it's not a small cottage, its fair size there are photographs in the file and add a bathroom, Correct? (Asking Ben)
45. Ben: we are going to add a bathroom correct, yes sir
46. Brett: as far as the detached storage structure there, 60 x 40, 2400SF, in that area I think he can go 30,000 in a commercial residential the confusion on this issue is that there were several different proposals put forward over time, but we settled on 40x 60
47. Ben: yeah
48. Brett: so variances in this case, on this particular property, I can't call it a two family unit, because our code defines it as an up and down or side by side duplex, this one is entirely detached and can't be entered from the main dwelling, so it's not like converting an attached garage for an older relative, this is a separate all together small house at 1100SF this is almost 800 it would almost qualify for a house per Township zoning with a 15'x15' addition and again non-owner occupied so because of that there would need to be variance on those issues
49. Gary: anything else
50. Claire: how would the fire department get to that if there were an issue
51. Ben: umm there is an access drive that connects to the existing driveway of the single-family home that wraps around to the back, I am also cutting in a new drive to go to the back of the property as well
52. Gary: is that the existing, um where you have the dotted lines on your map that you
53. Ben: yes, yes
54. Gary: and that, you would extend that to the pole barn also
55. Ben: I would, yes. There is another structure that is on the property, on the south side, that is a 3 car shed maybe you would call it, that is an existing structure and that's actually where we are cutting the drive to now so I have access to that shed now but we can tie in the drive to go all the way to the pole barn or to that existing house where it can just peel off into its own garage
56. Gary: and can you state once again what you are going to use the pole barn for
57. Ben: Pole barn will be for personal use, it would be used for storage of my personal equipment, I have trailers, I have skid steers, I have yeah know property that I use to renovate my homes with
58. Remy: does that cottage have a basement
59. Ben: it does not it is on a slab
60. JoAnn: the cottage is currently empty?
61. Ben: yes, yeah I wouldn't want to live in it right now
62. Gary: anything else from the board? Remy?
63. Remy: I'm looking
64. Remy: and that cottage will be fully up to code as a rental property with all the stipulations fire extinguishers etc.

65. Ben: interrupts... yes absolutely, absolutely, all the permits will be pulled for the HVAC, electric, and the plumbing, whole kit and caboodle
66. Claire: do we have any neighbors or anyone from the neighborhood here, looks like we might have people that want to talk
67. Gary: anything else, Ben: for me? Gary: just sit tight we might have something coming
68. Gary: (motioning to audience) come forward sir? (Asking Ben) could you let him sit there so he could speak into the microphone Ben: absolutely
69. Gary; and sir raise your hand, the testimony you are about to give is the truth?
70. Audience man: yes sir
71. Gary: just state your name and your address please
72. Terry: my name is Terry Phelpho (sp) I live at 314 Ohio Ave,
73. Gary: okay did you get that Melissa? MM: yes, Gary: okay your floor
74. Terry: I'm under a misunderstanding, the agenda says this dwelling unit is non-owner-occupied rental units I thought he was going to put rental shacks back there, that was the impression I had, not a pole building, I didn't, this is kind of misleading. You know rental sheds, like you see the aluminum things I thought maybe he was going to occupy rental units, storage units, okay than I'm under a big misunderstanding because I did a lot of research under chapter 7 (laughing) and that was a big waste of time, so I had all kinds of comments about this because I don't think him and I are very good friends anyhow, but I guess there is nothing I can do about it, that's permissible to put that pole barn back there because it obstructs the views, it's a beautiful view, my neighbors and I we have taken such good care of it and of Pamela Dubinsky she is an absentee landlord that we maintain the property, if you ever go by, you probably saw the side yard over there, I opened up the woods so it's a beautiful view we have deer we have turkey and now he's going to plop a pole barn right in the middle of it. So I mean even on some of the things it said um result in destruction and loss of natural scenic and historical feature of the Township and echo system, um it's supposed to be harmonious in the character of the neighborhood, it's beautiful back there, he has a beautiful piece of property, I tried to buy it but I got out bid and it says all structures in active areas have to be at least 100ft from all property lines, in your chapter 7 here, I have the quote written right down and he only has a 92ft lot, so I don't know how he's going to fit it in there , I have no problem with his structure up front because that's a nice little building and if he works on it, it's going to be a nice little structure for whoever lives in it
75. Gary: anything else?
76. Terry: No
77. Gary: your pole barn (speaking to Ben) I noticed on your print you do not have any standoffs, setbacks
78. Ben: okay
79. Gary: no dimensions
80. Ben: Okay
81. Gary: how far are you from the property line, either side
82. Ben: interrupts Gary, I haven't gotten to that far yet, basically what we are looking for is to say if I have to put it 20ft from the property line, I'll put it 20ft from the property line do you know what I mean?
83. Gary: there's regulations based on your setbacks
84. Ben: absolutely, okay that's fine
85. Gary: on both the side property lines and the back
86. Ben: I am pretty sure I read those because you know I have studied the code and I think I have enough, you know you are at 20ft wide, excuse 40ft wide by 60ft long there is plenty there is plenty of space to give, on either side, you got 20ft, 20-30ft on each side\
87. Gary: how far are you away from the tree line
88. Ben: uh for this it will probably be another 100ft from the tree line and then the property itself probably goes back probably 1000ft, I'm not going to get into the woods, there is plenty of space to build without getting into the woods

89. Gary: okay and the way you have it laid out on your print I don't see a north east south or west but let's say um
90. Ben: the building faces east and west
91. Gary: it's facing east and west?
92. Ben: it faces east and west, then the top of the property line, this way (showing Gary on his map) that side of your paper is north
93. Gary: and how far off are you the way it is written on here now how far off you, has to be a minimum of 200ft
94. Ben: it will be a minimum of 20ft for sure
95. Gary: okay but you don't know what this is
96. Ben: I don't know the exact, I just did a drawing to kind of give a perspective of what it would be
97. Gary: okay
98. Ben: so I can take it back to the drawing board to keep working on it
99. Gary: anything Remy?
100. Remy: I just think is a discrepancy because the one drawing shows 92ft of frontage is that correct or do you have 120ft of frontage
101. Ben: I'm not sure I don't know where the pins are, I was going to have the property resurveyed because I was going to mark out the exact lines of the property
102. Brett: I have 92 ½
103. Gary: 92 is what is on the what I would assume this is a tax map
104. Ben: yeah
105. Gary: it's 92 ½
106. Remy: because there is a parallel vacant lot next to that property right?
107. Ben: that's correct
108. Remy: you don't own that property
109. Ben: I do not
110. Gary: are we ready for a vote on the variance side of this request, what kind of finish are you going to have is this going to be aluminum siding
111. Ben: metal siding, metal roof with potential solar panels on top for the electric
112. Gary: okay
113. Remy: and it will match the structures already on the property as far as color
114. Ben: it will probably be better looking than those yes
115. Remy: is your plan to pave the driveway back to the garage
116. Ben: it is a possibility right now it's not in the budget but it will definitely be a gravel driveway going back to it as it is right now
117. Remy: okay because in the future for that length of driveway we worry about runoff, does anyone else have any comments or concerns about this proposal
118. Terry: I am just concerned about grade, where that's going to be, if he's going to put it where I think he is going to put it, it's almost like a marsh, I've even seen them bury trucks in there before it takes till about August to even be able to drive back there
119. Ben: it does
120. Terry: and all that drainage comes right to my property so we catch all that, so he's going to have to put some serious drainage in there
121. Ben: and we are that's the purpose, the purpose of this whole process of going through this is that we are going to run drainage from the front out to the city sewer it's in the budget to do that, I have the excavator ready to go I am just waiting to know if I am able to do this
122. Gary: the city sewer or storm sewer
123. Ben: uhm storm sewer?
124. Gary: better be

125. Ben: storm sewer, and there is a storm sewer out front, right out front we plan in tying in the downspout drains and everything and taking it right out to the street

126. Gary: storm sewer, you have to bury that

127. Ben: yes

128. Claire: looking at all of this, it's going to be up to code

129. Ben: when I do something I do it the right way and it's always coded and it's always permitted, everything is done, I have renovated 30 houses in the last five years so, it wouldn't be the first time

130. Remy: so nothing would run to the back of the property

131. Ben: no it will take it all to the front

132. Remy: so all the gutters, all the downspouts, all the water would move forward, and if it's truly that marshy and swampy would you add fill or

133. Ben: once you grade it and put your French drain system in. The plan is, if the variances go through we are going to put in like a dry bed in so that the water will filter through that then the excess water will pour out to the storm sewer. So it will be esthetically pleasing

134. Audience member: We already have a problem with drainage

135. Gary: you need to step forward and speak into the microphone, and the testimony you are about to give is the truth?

136. Audience Member: yes

137. Gary: state your name and address please

138. Michael: Michael Croop, 5281 McCormick Road, I own property south of him, my parents own property across the street and the problem with the water is he's got the last manhole in front of his house for the runoff and the other manhole is down across from Rivers and they come this way (using his hands to show) and they meet right in front of Renaissance and when that backs up, then there is a pipe that goes straight across the streets from Renaissance and the water runs down behind my parent's house and it floods so added more water to that, the county don't want to do anything about it. The street car bank is just north of there and there is supposed to be a pipe there and it never got maintained and then it runs over to the swamp where the billboard is and then there is pipe behind Ravenna Oil that takes the water down to the bottom of the hill on Chestnut street, but none of that has ever been maintained and the county never wanted to do anything about it, it floods my mom's back yard

139. Gary: and that is in Ravenna Township

140. Michael: yes

141. Gary: it's not ringing a bell with me

142. Claire: (speaking to Gary) Croops garage, remember where Croops garage was at on 44

143. Gary: yeah

144. Michael: Yeah that's where the pipe goes

145. Claire: that's where his parents live

146. Michael: it runs behind there and goes down in a ditch and then it goes back where you used to live (speaking to Claire) and floods, you remember how it, you have experienced that and when Hemling (sp) had a house, he filled up all the way around that building so that just pushed more water onto our property and years ago my great grandfather used to keep that, there is a pipe somewhere under the old trolley car track that goes over to where Jim Hudson filled it in, and uh (laughed) so it just created a big mess and the county just never wanted to do anything about it, we have complained, and they just don't want to do anything about it

147. Gary: excuse me just a minute, Brett is that under the Township jurisdiction

148. Brett: I was trying to map, and I understand Renaissance and I understand them coming together but then they drained out to Lake Street or behind Ravenna oil, that would be a city matter

149. Michael: yeah, well right at Renaissance it goes straight across the street, going west and then it goes behind, and then it goes through a ditch and it's supposed to drain under the old trolley car track where the bank is and go into that swamp there where the billboard is where Jim Hudson filled in years ago

supposed to go through a pipe behind Ravenna oil and then down to the creek, um at the bottom of the hill on Chestnut

150. Brett: somewhere down by railroad bed down there

151. Michael: yes

152. Brett: okay

153. Gary: my questions is who maintains that, who's supposed to maintain that

154. Brett: we would focus on water over the roadway kind of things, but I think as far as drainage like piping that would be the County

155. Michael: we have tried for years they don't want to do anything about it

156. Brett: Remy mentioned a permeable driveway, so that we wouldn't have a sheet of 1000ft of asphalt running. My interpretation of this property is that it runs uphill at maybe a 3% grade running east off Prospect, his backyard goes up a hillside that's a fair incline is that correct

157. Ben: it is

158. Brett: so I could understand some drainage issues, I don't know how much, or if his proposal would add to it I, that's open to interpretation I'm not a hydrologist

159. Terry: if anybody has ever driven down Prospect during a storm,

160. Gary: please speak into the mic you are still under oath

161. Brett: and your name again please

162. Terry: Terry, if anybody drives down Prospect after we have had a downpour, you are driving through this much water right at the end of Ohio Ave, right across from the bulletin board. I actually helped the city with that, the township and Ravenna, in my back yard where the Trolley car runs through created a retention basin that holds all the water back and filters threw a 24in pipe to an 8in and it slowly feeds, I mean if I didn't put that in there Prospect would be totally flooded worse than it gets already. But the way his property is and I am, its America you got a choice it's your property but it does, it runs right to Pamela Dubinsky's which is right next door to my property, that's the property we maintain and then right in our back yard, so they catch it, we catch it, I actually retain a lot of it from Route 5, (talking with hands) and showing directions and then my sisters footer drains can't even drain because the pipe is backed up so much and then you got kids playing in the retention pond at Renaissance

163. Gary: the retention pond, was it put in because the county said so?

164. Ben (no name given) it was put in because of all the run off from Renaissance

165. Terry: mine was self-made

166. Gary: pardon me

167. Terry: mine was, I did mine on my own and it was on the guidance of John Drago if anybody remembers him. He and I did it together, it was a big one, put a retention basin in on the railroad tracks

168. Gary: Mr. Kelly

169. Ben: Yes sir?

170. Gary: Can we talk about a retention pond

171. Ben: sure

172. Gary: is there room on the property? Then you can bleed it into the City Sewer

173. Ben: that is kind of the intent was,

174. Gary: pardon me?

175. Ben: that was the intent when I created a dry bed, that is kind of a retention pond, so it stay a dry bed, when water runs in, plants will be growing in there and then any run off from that would run off to the storm sewer

176. Gary: metered? Would it run off metered, like if you put in a 6in or 4in pipe and you are going to feed that into the storm sewer

177. Ben: yes

178. Gary: you are going to do that? That's in your plans?

179. Ben: it's in my plan to do that because it is wet, I am not going to, it's really wet back there, and I need to do that to be able to build something so it's not going to be on a swamp, it's going to have to be drained off

180. Gary: would you two gentleman be okay with that?

181. Men talking over each other and amongst each other

182. Ben: well it won't be where the maple tree is where it would be, it would be farther to the south, near the property line of the south to catch the water runoff and then the water can be ran down east west towards Prospect

183. Men talking amongst themselves (inaudible)

184. Gary: that's much better than having your properties flooded

185. Terry: it is it's much better but he's got work cut out for him

186. Claire: no but that's his choice though I mean if he chose to do that is there an issue then

187. Man asks: do you have to have a new sewer line for the back house

188. Ben: yes

189. Man asks: do you have to pay for the tap in

190. Gary: but that would not take care of the storm sewer

191. Men talking amongst themselves (inaudible)

192. Claire: does anyone else have anything they would like to add?

193. Gary: interrupts Claire: anything else?

194. Two residents talking with Remy at his table (inaudible)

195. Gary: (starts to talk)

196. MM: hold on one second everybody, you are all talking at once, too many people talking

197. Gary: we are not being put on the record gentlemen; do we need to add something to the minutes Remy?

198. Remy: no, they were just talking about the maple tree basically and approximately where the structure would be

199. Gary: Mr. Kelly

200. Ben: yes sir

201. Gary: correct me if I'm wrong, Brett, he's probably going to have to go through the county on the retention pond dimensions and how it will be drained, is that correct

202. Brett: I would think with this more elaborate plan that it's going to be written into the variance, then yes I think that water resources would probably want to do some kind of site plan and make recommendations

203. Ben: okay

204. Brett: I know that the property goes up a fair incline, but where this house and cottage is, the home sites are actually, flat, um just flat so where these two plains meet between the house and the cottage, in the past there had been water problems there or routed

205. Ben: they are not routed yet, as far as I know there is no drainage in between the two houses

206. Brett: okay I know that was an issue between the two units before you had bought it

207. Ben: before I had bought it that's correct and I intend to take care of that

208. Brett: there is almost a swale or dry creek there already

209. Ben: right

210. Brett: like the board suggested it's going to require some work but if it meets the neighbor's expectations and water resources. My only presentation to make here was the dual rental so if that's his plan and the board approves it then good luck

211. Gary: is there anyone else in the audience that anything else to say, last call

212. Man asks: does he still have to go through the county

213. Gary: yes water resources I am thinking and that's what our zoning officer suggests also. That way it's done right and you know if it's 1ft, 2ft, 3ft, 4ft, whatever they will tell and it will be done properly, that should benefit the both of you

214. Ben: absolutely, I would think so
215. Gary: and you
216. Gary: anything else, anyone? Remy?
217. Remy: I am good
218. Gary: Claire? Good. JoAnn? Good. We can entertain a motion
219. Gary: the motion should include a stipulation of a retention basin which would be recommended by Portage County water resources
220. Remy: you could maybe put in a system to manage water runoff, yeah know because they might suggest something different than a retention basin like he's talking about a dry bed. So I would say water management or rain water management system as recommended by water resources to manage, cause that new structure is going to be impermeable so that's going to add more water you are not going to move permeable land which could absorb the water and so now if it's already swampy, you know some system to manage that water but leave that a little more open so he could work within that. If we lock him into a retention pond, you know that might not be the best solution for that property
221. Claire: and then what about the cottage
222. Gary: no as long as he brings that up to code, he has to run utilities to it that should be okay
223. Remy: yeah so as long as the cottage is up to rental or you know dwelling codes you know as our current codes are for rental properties
224. Gary: you most probably are going to have to run that past your water resources also
225. Ben: okay
226. Gary: that sewer line also,
227. Remy, yeah there is probably going to be a best way to run the line from the cottage or the street at the tie in, then you are also talking about the storm water tie in and so you know you are actually going to have two lines, you know one to the storm sewer and one to the sewer
228. Gary: and then the critical will be the storm water and they will tell you whether you need a 4in line, 6in line, 8in line whatever
229. Ben: okay
230. Gary: for metering it into the storm sewer
231. Ben: okay
232. Remy: and then Brett I had a question for you for my notes for accessory buildings sections 610.03 for all lots greater than 2 acres aggregate gross area should not exceed 2,000SF, says for all districts and I think you said that it could go up to 30,000
233. Ben: it's zoned commercial residential
234. Brett: to clarify, Mr. Kelly owns a home remodeling business
235. Ben: yeah
236. Brett: the accessory structure in the rear the 40x60 is essentially a commercial structure for his home remodeling business and large landscaping equipment. It's not an accessory structure tied to the two residences there on south Prospect. And for his home-based business he would be in the city. So that's how I interpreted it as sort of a commercial use in a commercial residential
237. Remy: okay, but again we are looking at today, he could sell the property tomorrow you know once he gets everything in place and then we could also redistrict, so then again, we need to think about a re-zone
238. Gary: what is it zoned right now
239. Remy: general commercial I didn't look
240. Brett: commercial residential
241. Gary: okay those are the two stipulations you want in the motion
242. Remy: so the water runoff in the building, so the water management because of the building basically and you know that the cottage meet all applicable codes
243. Claire: so you are still looking for a motion then?

244.Gary: yes when we talk about the stipulations, let's put them in the motion that they will fall under the jurisdiction of the Portage County water resources

245.Claire: okay I move that we accept BZA 2022-011 for the conditional use variance for the accessory dwelling unit and the non-owner-occupied rental units with the stipulations for the building that you get with the water resources department and you have some sort of system to manage the water flow

246.Remy: well plus it has to be placement and setbacks, the size height etc., for the area

247.Claire: exactly, and with the cottage we expect that that will meet all building, zoning regulations that are current. Do we need to add anything else to this?

248.Remy: and the accessory building be no larger than 2400SF

249.Ben: okay

250.Gary: do I hear a second?

251.JoAnn: second

252.Gary: all in favor? Melissa take a vote

253.MM: Remy; yes Claire; yes, JoAnn; yes, Gary; yes. That motion has passed

254.Ben: thank you

255.Gary: uh sir, there is a 30 day grace period so if any neighbors or yourself want to appeal anything, you have 30 days to do that, to file that appeal.

256.Ben: thank you

257.Gary: thank you

258.Claire: have a good evening