

RECORD OF PROCEEDINGS

Minutes of

Meeting

Etna Township Board of Zoning Appeals

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held July 7, 20 2020

Chairman Reis explained the Public Hearing Requirements.

Public Meeting

The hearing was called to order by Chairman Reis at 6:01 p.m. on July 7, 2020 at the Etna Township Garage. The roll call showed members Trent Stepp, Shannon Mills, Greg Reis, Eric Nickolas, and Tommy Hunt present, along with Clerk Laura Brown.

The public meeting was to approve the minutes from the June 15, 2020 hearings and to sign the final orders.

Erik Nickolas move to waive the public reading and to approve the minutes and sign the final orders from the June 15, 2020 hearing for VA-20-01 submitted by CRG for Etna Park 70-East PMUD District, VA-20-02 submitted by National Sign for 103 Etna Crest Blvd., and VA-20-03 submitted by Allen Faires for 12453 National Road and the 2020 Organizational Meeting as presented. The motion was seconded by Trent Stepp and passed without objection.

Trent Stepp moved to adjourn the meeting at 6:03 p.m. Shannon Mills seconded the motion and it passed by unanimous affirmative vote.

Laura Brown, Clerk

Greg Reis, Chairman

Etna Township Board of Zoning Appeals

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held July 7, 2020**ADJUDICATORY HEARING-VA-20-06A, B, C Ryan Homes; 208, 141, 145 Buttonbush Place**

Chairman Reis explained the Public Hearing Requirements.

The hearing was called to order by Chairman Reis at 6:17 p.m. on July 7, 2020 at the Etna Township Garage. The meeting was audio taped for the township records. The roll call showed members Trent Stepp, Shannon Mills, Greg Reis, Eric Nickolas, and Tommy Hunt present, along with Clerk Laura Brown.

The nature of the hearing is to consider an **Area Variance** request from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland regarding the side yard setbacks submitted by Ryan Homes for 145 Buttonbush Place, 208 Buttonbush Place, and 141 Buttonbush Place.

Chairman Reis explained the process of the hearing. Alex Rudolph, James Reed, Ron Sabatino, and John Singleton were sworn in.

Zoning Inspector John Singleton reviewed the provided written Staff Report. When the Certificate of Occupancy was issued the house passed inspection. On January 23, 2020 while performing occupancy inspections on different homes John Singleton noticed the air conditioning units on these homes and they were encroaching into the setbacks. In October of 2019, 141 and 145 Buttonbush were issued Stop Work Orders because of the egress windows encroaching into the setbacks. At this time it was explained to Ryan Homes that no component of the homes can be placed into the setbacks. The egress window encroachment was corrected. This has been an ongoing issue with Ryan Homes. The Zoning Office will not issue Zoning Permits without the location of the air conditioning unit on the drawing. The drawing is now stamped as approved. This process will now allow for verification of the units when doing the inspections for Occupancy Permits. Ryan Homes has still had issues with the air conditioning units to this date and has received several failed inspections until the air conditioning units are moved. The Occupancy Permit has been issued for all three of these homes but the air conditioning units were not located in the setback at that time. The Occupancy Permit for 208 Buttonbush was granted on August 8, 2019, 141 Buttonbush was granted on January 16, 2020, and 145 Buttonbush was granted on December 18, 2019 prior to the air condition unit being installed.

The board discussed why the air conditioning units are located on the side of the home instead of the rear of the homes.

Alex Rudolph with Ryan Homes provided the closing dates for these homes; 208 Buttonbush on November 27, 2019, 145 Buttonbush on December 20, 2019, and 141 Buttonbush on January 28, 2020. Since these homes are already occupied with home owners Ryan Homes applied for variances. To move the units in these homes Ryan Homes would have to access the basements of the occupied homes, some of them have finished basements. Ryan Homes is now showing the air conditioning units on the drawings and installing them prior to requesting Occupancy Permits.

The Occupancy Permit for 208 Buttonbush was issued on August 8, 2019 and closed on November 27, 2019; the Occupancy Permit for 141 Buttonbush was issued on January 16, 2020 and closed on January 28, 2020; and the Occupancy Permit for 145 Buttonbush was issued on December 18, 2019 and closed on December 20, 2019.

The board discussed what it would take to move the air conditioning units on these properties with Alex Rudolph. The air conditioning units were not shown on the drawings at this time. The board discussed the ongoing issues with the air conditioning units. John Singleton will not issue Occupancy Permits without the air conditioning units being installed.

John Singleton left the meeting at 6:41 to attend another meeting.

Ron Sabatino with T&R Properties is wearing several different hats this evening; the Developer, as a builder, and representing the Homeowner Association and he opposes all three variance requests. It is in violation of the deed restrictions. Mr. Sabatino discussed the request for an inspection when the installation of the unit will be in the setbacks. As a builder/developer Mr. Sabatino likes narrow side yard setbacks, zoning likes adequate side yard setbacks to access the property. Mr. Sabatino met with Jeff Wayne, the Director of Ryan Homes, nine months ago and Mr. Wayne assured him this issue would be dealt with. Mr. Wayne has been replaced with Tom Laughlin. Tom Laughlin told him they were going to try to obtain the variances. Mr. Sabatino believes this is an easy fix to relocate the air conditioning unit. The board discussed placing landscaping in this area to block the air conditioning units. Mr. Sabatino had to leave the meeting early to also attend the meeting with John Singleton.

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James Reed of 141 Buttonbush Place lives in one of the homes needing a variance. Mr. Reed has had issues with Ryan Homes since they have closed on the home. This has been one of the worst experiences he has had out of owning six homes and building five. They are having issues with their basement flooding. This is the result of the removal of the egress window. Their request is that if the board requires the air conditioner units moved that the township monitor Ryan Homes during the process. They want it done correctly because they have had a number of issues with Ryan Homes already. They do not have an objection of the unit being moved and they are also fine with it being left where it is.

Alex Rudolph explained the issues with the egress windows and the grades which are not part of this variance hearing tonight.

Alex Rudolph explained that the ac units were not shown on the original design of the homes; they are usually located around the windows so they are not directly under the windows. That is why they are usually placed on the side of the homes. The air conditioner location has posts that go into the foundation. The board discussed the timeline of requesting an occupancy permit prior to setting the foundation for the air conditioner location. The township requires the Building Codes inspections prior to the township Occupancy Permit. The township had issues with the location of an air conditioning unit recently and it was after the building code inspection.

The board discussed the warranty timeframe on a Ryan Homes. On a structural issue it is five years and if you have an issue they will come out, structural issues don't go away. Alex Rudolph stated moving the air conditioners are not a cost issue; it is working on the interior of the home and disrupting the homeowner. They requested variances on behalf of the homeowner. All three homeowners signed the applications and they are representing the homeowners. Only one homeowner was present at the hearing.

The board discussed how the air conditioners could be moved out of the setbacks. The ten foot setbacks are there for a reason where nothing permanent is supposed to be located. The Zoning Permit and Occupancy Permit approval process was discussed.

Trent Stepp moved to close the public testimony at 7:13 p.m. The motion was seconded by Eric Nickolas and passed by unanimous affirmative vote.

The board discussed the criteria for a variance and Section 512.B Standards for Area Variances determining area variances based on practical difficulty and under Item 6 "Whether the property owner's predicament feasibly can be obviated through some method other than a variance."

Trent Stepp moved to deny area variance VA-20-06A submitted Ryan Homes for 208 Button bush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks from five feet to 2 1/2 feet because the Standards for 'Practical Difficulty' (Section 512.B.) was not met. The motion was seconded by Eric Nickolas and the roll call was as follow: Trent Stepp, yes; Shannon Mills, yes; Greg Reis, yes; Eric Nickolas, yes; and Tommy Hunt, yes; motion passed 5-0.

Trent Stepp moved to deny area variance VA-20-06B submitted Ryan Homes for 141 Buttonbush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks from five feet to 2 1/2 feet because the Standards for 'Practical Difficulty' (Section 512.B.) was not met. The motion was seconded by Eric Nickolas and the roll call was as follow: Trent Stepp, no; Shannon Mills, yes; Greg Reis, yes; Eric Nickolas, yes; and Tommy Hunt, yes; motion passed 4-1.

Trent Stepp moved to deny area variance VA-20-06C submitted Ryan Homes for 145 Buttonbush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks from five feet to 2 1/2 feet because the Standards for 'Practical Difficulty' (Section 512.B.) was not met. The motion was seconded by Eric Nickolas and the roll call was as follow: Trent Stepp, yes; Shannon Mills, yes; Greg Reis, yes; Eric Nickolas, yes; and Tommy Hunt, yes; motion passed 5-0.

Trent Stepp moved to adjourn the meeting at 7:33 p.m. Shannon Mills seconded the motion and it passed by without objection.


Laura Brown, Clerk


Greg Reis, Chairman



81 Liberty Street
P.O. Box 188
Etna, Ohio 43018-0188


Phone 740/927-7717 Fax 740/927-1699

Members: Sarah Benoit-Eric Nickolas-Greig Reis-Mark Schaff-Trent Stepp
Alternates: Tommy Hunt - Shannon Mills


FINAL ORDER

The Etna Township Board of Zoning Appeals held an adjudicatory hearing on July 7, 2020 at the Etna Township Garage to consider an Area Variance request from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland regarding the side yard setbacks submitted by Ryan Homes for 208 Buttonbush Place.


The Board moved to deny area variance VA-20-06A submitted Ryan Homes for 208 Button bush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks from five feet to 2 1/2 feet because the Standards for 'Practical Difficulty' (Section 512.B.) was not met. The motion passed 5-0.




Tommy Hunt




Shannon Mills



Eric Nickolas



Greg Reis



Trent Stepp

The Final Order was approved and signed: 9-15-20

The Final Order was mailed/emailed to applicant on: 9-15-20



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Members: Sarah Benoit-Eric Nickolas-Greig Reis-Mark Schaff-Trent Stepp
Alternates: Tommy Hunt - Shannon Mills

FINAL ORDER

The Etna Township Board of Zoning Appeals held an adjudicatory hearing on July 7, 2020 at the Etna Township Garage to consider an Area Variance request from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland regarding the side yard setbacks submitted by Ryan Homes for 145 Buttonbush Place.

The Board moved to deny area variance VA-20-06C submitted Ryan Homes for 145 Buttonbush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks from five feet to 2 1/2 feet because the Standards for 'Practical Difficulty' (Section 512.B.) was not met. The motion passed 5-0.

Tommy Hunt

Shannon Mills

Eric Nickolas

Greg Reis

Trent Stepp

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FINAL ORDER

The Etna Township Board of Zoning Appeals held an adjudicatory hearing on July 7, 2020 at the Etna Township Garage to consider an Area Variance request from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland regarding the side yard setbacks submitted by Ryan Homes for 141 Buttonbush Place.

The Board moved to deny area variance VA-20-06B submitted Ryan Homes for 141 Buttonbush Place from the Planned Unit Development Text for Cumberland Trails which govern the Villas at Cumberland to the reduce the side yard setbacks from five feet to 2 1/2 feet because the Standards for 'Practical Difficulty' (Section 512.B.) was not met. The motion passed 4-1.

Tommy Hunt

Shannon Mills

Eric Nickolas

Greg Reis

Trent Stepp

The Final Order was approved and signed: 9-15-20

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