

**Swan Creek Township Board of Zoning Appeals**  
**April 21, 2022**  
**Record of Proceedings-Minutes**

Meeting was called to order at 6:30 p.m. by David Smith, Chairman  
Roll Call was taken by Zoning Inspector, Lisa Wylie  
Board members present: David Smith-Chairman, Robert Beckwith-Vice Chairman, Gregg Winseman  
Jeremy Gillen-Absent  
Visitors-see sign in sheet  
David Smith led in the Pledge of Allegiance

**NEW BUSINESS:**

**Devon McCance-Variance request to park work trucks on his property 1830 Co Rd 3 Swanton, Ohio**

Devon was called to the stand and was sworn in to testify.  
Devon said they closed on the house late September. Prior to that he had reached out to the township was unable to get answers to questions regarding zoning due to the township being in between inspectors. The realtor Dan Loch had reached out to Trustee Gene Wilson. Gene had advised he would need a variance. After closing, Devon learned they would no longer be able to continue to park his trucks where they had been in Wauseon. He still owned their previous home in Archbold at that time. They moved to County Rd 3 home to be closer to Holland as they have an additional child who lives there. They purchased the 5.3 acres with the hopes of being able to park the work trucks there, eventually in a pole barn for which Devon had just received a permit.

He owns a trucking company with 4 employees which include himself, father, brother and additional employee. All trucks are 2015 or newer. He hauls aggregate stone, ag seed and salt for the state in the winter. He hauls nothing back to the property and the trucks are empty when parked there overnight. Devon has already widened the driveway with additional stone. Also, he extended the driveway so trucks could turn around and not have to back into the roadway causing road hazards.

**Leland Abbott, 4686 Co Rd 6-1, Delta, Ohio Sworn in to testify.**

Leland testified that Devon is very professional and courteous and if the variance is granted no one would be disappointed.

**Robert Elling, 1883 Co Rd 3, Swanton, Ohio Sworn in to testify.**

He has lived here in the township for 40 years. He is 100% for Devon parking his work trucks at his home. He spoke to Devon for 30 minutes and is a good judge of character. He believes he is a hard worker, honest, man of his word and family man.

David asked if anyone else wanted to speak for or against. No one does.

David makes motion to recess to deliberate.

Roll Call-David-yes, Robert-yes, Gregg-yes

Recess 7:01

Return 7:25

David talks about how the McCance home is zoned for AG/Residential and his business is commercial. He talks about Article 100-7 Off-Street Parking. This allows for parking of a semi, dump truck, back hoe. So it would allow for his truck to be parked there but not entire fleet.

David moves to deny the proposed variance. Robert seconds.

David-Aye, Robert-Aye, Gregg-Aye

Devon asks how long he has to relocate trucks and is told 90 days. They request more as that is not reasonable time to find property and close on it. Leland Abbott suggests 6 months to a year. After discussion the Board agrees to grant 6 months. However, if more time is needed, Devon may contact the Zoning Inspector for another 6 month extension (maximum one year).

## **New Business:**

### **Tammy Eaton- Variance request for an apartment, pole barn, deck, covered patio, utility room and garage addition on her property 2392 Co Rd 2 Swanton, Ohio**

Tammy was called to the stand and was sworn in to testify.

Tammy talked about how all of this started when her mother asked for a permit without her permission back in 2015. Former Zoning Inspector Walt Hallett gave the permit to Tammy's mother. Tammy had obtained a permit in 2020 for the addition of adding the large garage. However, there was no permit for the craft room or enclosed garage addition on the far east end of the structure.

### **Keith Baldwin, 2404 Co Rd 2, Swanton, Ohio**

Keith and Tammy discussed with the Board all of the measurements and areas of their requests. Keith submitted a survey they had done recently. The front deck would be too close to the road. There was discussion about the drainage from the pole barn. There is no entrance from the craft room to the home. The driveway is not part of the BZA and that will be looked at by the Township Trustees when this is over. They talked about the history of this property and the previous court proceedings.

David makes motion to recess to deliberate.

Roll Call-David-yes, Robert-yes, Gregg-yes

Recess 8:59

Return 10:06

David says he moves to deny the following variance requests: small storage garage, mother-in-law/craft room/3<sup>rd</sup> dwelling, front deck on 2392, 10 x 10 utility room on 2392. 20 x 50 pole barn and covered 20 x 16 covered patio on 2404. The property is in violation of the resolution under the following items:

Article 100-6.1 Statement of Purpose (Nonconforming Uses). It is the intent of this resolution to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this resolution that nonconformities shall not be enlarged upon, expanded on or

extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

100-20-91- no permit for small garage. Violation of Ohio 519.7 when permit is required you need to get one.

100-6.4 Nonconforming use of structure by adding 3<sup>rd</sup> dwelling into garage structure granted in 2020 you have created 3 houses and only allowed to have two.

100-6.7 paragraph 3: If Zoning Inspector shall find, upon reviewing the application for validation certificate, that the existing use is illegal or in violation of any other ordinance of the law or if he finds that the building for which the Certificate is requested has been constructed or altered for the existing use of any other use without full compliance with the Building Code or The Zoning Resolution in effect at the time of construction or alteration, the Zoning inspector shall declare such use in violation of this resolution and repeal the vested right granted by the Validation Certificate.

100-26.1 Violation of the Zoning Resolution Penalties-Violations any person, firm, or corporation violating any of the provisions of this Resolution shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than five hundred dollars (\$500) for each separate offense.

David asks for Second. Robert Seconds.

David-Aye, Robert-Aye, Gregg-Aye

David says the best he can tell them is this is going to the Trustees, Prosecutor and Zoning Inspector. They will have to get together to figure out where this goes from here. This is beyond what the BZA can do. It is a violation of the Resolution and lawsuit you were granted in 2016 for having 2 dwellings. BZA decides on the book they don't get into penalties. Hopefully, it will work out favorably. Any time you put a building without a permit it should be removed. We cannot tell you that. That will be up to the Trustees so don't go tearing it down. Same as the craft room was not in permit. You were permitted to build the big garage and once it was signed off on then you added the small garage and installed the room. It is totally separate and only accessed from outside. It has refrigerator, bed, fridge, shower, toilet and sink and whatever kitchenette is. It is a separate dwelling so it is a violation of what you were permitted to do. The trustees and Lisa will be contacting you.

Tammy says none of this would have happened if someone from this office hadn't given a permit to someone who didn't own the property. David said the court should not have granted the status she has because she did not own property when this was going on. When she bought in 2015, the nonconforming use should have ceased then.

The Zoning Inspector told Keith she would contact the trustees and be in touch.

David moved to adjourn the meeting and Greg Second.

Meeting adjourned.