

Board of Zoning Appeals

1 Application #'s VA-18-01 & VA-18-02

February 15, 2018

2
3 **LEGAL NOTICE**

4
5 Notice is hereby given that the Orange Township Board of Zoning Appeals will hold a public hearing
6 on Thursday, February 15, 2018, beginning at 7:00 p.m. to consider the following application/s:

7
8 **Variance Application #VA-18-01. Carlo Silvestri.** Requesting an Area Variance from Section 7.06(a)
9 of the Orange Township Zoning Resolution to allow for a lot split that will fail to meet the lot area
10 requirement and requesting a use variance to permit a new single family home on a non-buildable lot in
11 an area zoned Farm Residential (FR-1) District. The subject properties are located on 7030 Africa Road
12 and 7040 Africa Road, being Lot Numbers 7046 and 7048 of Africa Road Estates subdivision, and
13 having permanent parcel numbers 318-411-03-009-002 and 318-411-03-009-001.

14
15 **Variance Application #VA-18-02. John Angelo Burke LLC.** Requesting an Area Variance from
16 Section 7.06(a) of the Orange Township Zoning Resolution to allow for a lot split that will fail to meet
17 the lot area requirement in an area zoned Farm Residential (FR-1) District. The subject property is
18 located at 7034 Africa Road, being Lot Number 7047 of Africa Road Estates subdivision, and having
19 permanent parcel number 318-411-03-009-000.

20
21 The hearing will be held at the Orange Township Hall, 1680 East Orange Road, Lewis Center,
22 Ohio, 43035.

23
24 The applications and plans are available for inspection for a period of at least 10 days prior to the
25 hearing at the Orange Township Zoning Office, 1680 East Orange Road, Lewis Center, Ohio, 43035.
26 Zoning Office hours are Monday through Friday, 8 a.m. to 4:30 p.m. except legal holidays.

27 Following this hearing the Board may have a meeting for general purposes to consider such business
28 as may properly come before it including, but not limited to, consideration and/or approval of
29 minutes, scheduling future hearing dates for this or other applications and like matters.

30
31 The person responsible for the publication of this notice is Michele Boni, Orange Township
32 Zoning Department.

33
34 *Genevieve Hoffman, Chairman*
35 *Michele Boni, Orange Township Zoning Department*

36
37 Please publish one time, on or before Monday, February 5, 2018 in The Delaware Gazette

38
39 Ms. Hoffman called the hearing to order at 7:00 p.m.

40
41 Roll Call: Genevieve Hoffman, Bruce Ward, Rick Oster, Punitha Sundar, Jerry Miller

42
43 Township Officials also present: Michael McCarthy, Township Counsel
44 Michele Boni, Planning & Zoning Director

45
46
47 A court reporter with Runfola Reporters administered the oath to those wishing to speak

48
49 **Variance Application #VA-18-01. Carlo Silvestri.** Requesting an Area Variance from Section 7.06(a)
50 of the Orange Township Zoning Resolution to allow for a lot split that will fail to meet the lot area

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51 requirement and requesting a use variance to permit a new single family home on a non-buildable lot in
52 an area zoned Farm Residential (FR-1) District. The subject properties are located on 7030 Africa Road
53 and 7040 Africa Road, being Lot Numbers 7046 and 7048 of Africa Road Estates subdivision, and
54 having permanent parcel numbers 318-411-03-009-002 and 318-411-03-009-001.

55
56 Ms. Boni presented the Staff Report and presentation. The applicant is requesting a lot size of 1.707 acres
57 so a variance of .27 acres is required.

APPLICANT PRESENTATION/BOARD QUESTIONS & COMMENTS

58
59
60
61 Mr. McCarthy: What is the nature of the surrounding area, your neighbors?

62
63 Carlo Silvestri, 7040 Africa Road, Galena, Ohio, this was originally done over 18 years ago. I was told
64 thru David Pomeroy the Code was for 1.9 acres because we did not have sewer on that property. John
65 (Burke, neighbor) and I paid to have all the sewer brought in so we have sewer we put in 18 years ago.
66 What we're trying to do, if we can get this removed, John's lot will go to 1.7+ and mine will go to 1.7+
67 and eventually I will purchase this from John if we can get the variance on our properties. The area
68 between our properties is just a big ravine, so that's kind of the idea behind it.

69
70 John Burke, 7034 Africa Road, Galena, Ohio,

71
72 Mr. Oster: So you own the second one and all the property that's going to be affected by the move?

73
74 Mr. Burke: Yes, we both own the property together back in the back.

75
76 Mr. Silvestri: John found this 10-1/2 acres from 12-1/2 acres and over time split it and built houses, and
77 we have the property together.

78
79 Mr. Burke: In the back is a play area for our kids. They are grown up now, so we're not using it any
80 more.

81
82 Mr. Silvestri: I offered to purchase that little piece of ground but I needed to adjust the boundary a little
83 bit.

84
85 Mr. McCarthy: Mr. Silvestri, it's not before the Board but I noted that parcel you're discussing says it's
86 not buildable, not to be used for anything but recreation.

87
88 Mr. Silvestri: Correct. That's how we originally had it done, so I'm going thru Regional Planning right
89 now to have that changed for a single family home site. What we're both going to eventually do is build a
90 smaller house in there. I'm working with Regional Planning on that classification on the property, with
91 Delaware Code Compliance for the flood plain, FEMA already gave me the approval for the fill, so the
92 purchase will be based on a zoning change, Regional Planning and so forth.

93
94 Mr. Oster: Shouldn't that be done first?

95
96 Ms. Hoffman: It's for the other lot though.

97
98 Mr. Oster: That's true, but we're making a decision for that lot based on the other two lots.

99
100 Ms. Boni: The County wanted zoning approval first for the other 2 lots before they proceed with the
101 building lot.

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102 Mr. Oster: So they want our approval before they approve it?
103
104 Mr. Silvestri: Yes, it's one of their stipulations.
105
106 Mr. Miller: The area that you want to change, I take it you would not be able to build a house in that
107 particular area because of the ravine and topo?
108
109 Mr. Silvestri: That's correct. Right now there's only 2 spots that house can be built. The section
110 between these 2, heavily ravined, and the section back behind John's...
111
112 Mr. Burke: The drop off is about 60'.
113
114 Ms. Hoffman: So you're hoping to get that upper lot rezoned to single family residential?
115
116 Mr. Burke: The lower property.
117
118 Mr. Silvestri: Everything from Africa Road falls to the creek and we call this the lower property.
119
120 Ms. Hoffman: I had that backward, so you would like that rezoned so that...
121
122 Mr. Silvestri: We can build one single family home.
123
124 Ms. Hoffman: Just one single family home...
125
126 Mr. Oster: On the other side of the sewer line.
127
128 Mr. Burke: Correct; there's a barn there now.
129
130 Mr. Silvestri: The intention is to build in one area because the down creek overflow is at one end of the
131 property where the creek is so this keeps it as far away as we can. The area above is a flood plain, so the
132 intention is to bring dirt into the back of the hill which is, like John said, about 60'; that's a pretty big
133 drop.
134
135 Mr. Burke: On the aerial you can see what is an island that runs thru a pond we have and then it comes
136 up and there's a little sitting area, a waterfall and a large pond that we share. This also slopes down and
137 catches a lot of runoff from the golf course. It just runs thru during the heavy rains in the spring, but
138 when spring is over, this is all dried up, there's hardly any water running.
139
140 Ms. Hoffman: Aside from what you're trying to do with these, changing the property lines on that, are
141 you trying to keep the lower part one piece or are you going to end up...
142
143 Mr. Silvestri: Our intent is just to build a single family home down there.
144
145 Ms. Hoffman: But you still want to keep your whole entire still that large...
146
147 Mr. Silvestri: Correct.
148
149 Mr. McCarthy: Mr. Silvestri, we're basically talking about the Board approving 2 lots that are below the
150 stated minimum of the Code and my understanding has always been in large part the purpose of the 1.98
151 was to accommodate leach fields. We're creating 2 new lots and we're also creating a third parcel. That
152 parcel right now is titled to who, that 1/2 acre triangle that's being taken off of...

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153 Mr. Silvestri: John owns it. The intention is just to shift it forward because then it gives me the
154 opportunity to build this.
155

156 Mr. Burke: He's giving my current home a piece of his current home.
157

158 Mr. McCarthy: But the title will still hold with you on this parcel; it will just not have a little connector
159 on it?
160

161 Mr. Burke: Correct. Then I'll lose a triangle which will be added to the back portion...
162

163 Mr. McCarthy: And that will be part of the transfer for Mr. Silvestri's home?
164

165 Mr. Burke: Yes.
166

167 Mr. McCarthy: So we're not just creating a land locked island. The ownership will remain and will
168 transfer as a unit?
169

170 Mr. Silvestri: Yes, and I could be wrong but you approve the variance of the smaller lots, there's no
171 reason for it to change from an FR-1, which means we're not going to be able to put 3 homes down in that
172 lower land just because it has 5 or 6 acres, but what we'd do is have some kind of other variance brought
173 before the Board.
174

175 Ms. Boni: You'd have to rezone the property.
176

177 Mr. Silvestri: We'd have to change the zoning in order to do that, so 1 house would be the only thing...
178

179 Ms. Hoffman: I was wondering if you were going to try and have this lower property rezoned and why
180 not have the other parcels rezoned at the same time, but if you're not planning on having that rezoned,
181 that was the intent of my question.
182

183 Mr. Miller: If you're going to be filling that in, how's that going to affect the runoff from the golf course
184 into that ravine area?
185

186 Mr. Silvestri: The golf course doesn't run into that section. There's a pond and a pipe running
187 underneath, and when John and I first bought this property, this was all trash and debris. We cleaned it
188 and spent a ton of money to put this pond in. The pipe underneath was plugged; we unplugged it, so
189 water comes down and collects in a pond and runs off, goes in between and then doesn't even come back
190 to the back property. So where he's filling won't affect anything on the golf course. It's the hill that
191 comes down but as he fills in the one area, there is still going to be a drainage easement that runs over
192 next to the stream.
193

194 Ms. Hoffman: I don't know that any of that's relevant to....
195

196 Mr. McCarthy, No, just curious.
197

198 Mr. Silvestri: I have seen 0 to 2-3' at this point to make it so the water from the house will run off and
199 run back to that area now. Right now in the spring we have water backing up quite a bit in the play area
200 and we'll also have a lot of water just resting here because the land is so low. By extending that fill out,
201 he won't have that problem immediately coming into his basement that he's going to put down there.
202

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203 Mr. Oster: I was kind of going back to the original question of this says it's a permanent non-buildable
204 lot for personal recreational purposes only, yet, we've already got this garage on it.

205
206 Mr. Silvestri: We went back to the County and talked to Fred Fowler (Code Compliance) who at the time
207 was in charge of the flood zone area; he gave us the permission to apply for the permit to build the barn
208 that was down there.

209
210 Mr. Burke: And that piece of ground that you see in the green is outside the flood plain; there's another
211 part further south that's the same thing.

212
213 Mr. Silvestri: So if the barn wasn't there and he wanted to build that house right in the center, then it
214 would be out of the flood plain and you wouldn't have a problem. The back half of his house is probably
215 going to eclipse that; it will probably be abutting back where the basketball court starts.

216
217 Mr. Oster: So there's another building there too, isn't there?

218
219 Mr. Burke: No, that's a basketball court, just a concrete pad.

220
221 Mr. Oster: So if this gets changed, you're planning on building a house there, is the garage staying or is it
222 going too?

223
224 Mr. Silvestri: The garage will become mine; I have to find some place for all my stuff.

225
226 Mr. Oster: So there's going to be a house adjacent to the garage on that lot?

227
228 Mr. Silvestri: Yes.

229
230 Ms. Hoffman: You said in the future you plan on selling the other lots?

231
232 Mr. Silvestri: The other 2 parcels up front?

233
234 Ms. Hoffman: Yes,

235
236 Mr. Silvestri: Yes, eventually. My kids are getting older, so in the next few years the game plan is to go
237 thru this process and we're in the process of cleaning up the house, we'll sell this a year from now or
238 whatever and start the whole process once the house sells.

239
240 Ms. Hoffman: Is there an ingress and egress issue with getting to that back parcel?

241
242 Mr. Silvestri: No, we have a common driveway right now.

243
244 Mr. Ward: You didn't hear anything from any of neighbors?

245
246 Mr. Oster: So the common driveway is actually on the other property, right?

247
248 Mr. Silvestri: The rear property, yes.

249
250 Ms. Boni: And as Mr. Ward just mentioned, I did send out notifications to property owners within 200'
251 but I did not receive any comments or concerns.

252
253 Mr. Silvestri: I had a couple of them come over after they got the mailing and asked us some questions.

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254 Ms. Boni: I did get a call from Ms. Aikman; it wasn't relative to this variance request, so I sent her to the
255 County for her questions, so you may be hearing from her soon.

256
257 Mr. Silvestri: About the pond?

258
259 Ms. Boni: About the potential home being built. That was the only thing I received.

260
261 **MOTION TO APPROVE VARIANCE REQUEST APPLICATION #VA-18-01**

262
263 Mr. Ward made a motion to approve Variance Request Application #VA-18-01, Carlo Silvestri, as
264 submitted; seconded by Mr. Miller.

265
266 Mr. McCarthy: And Ms. Boni, would you like a stipulation to that, Engineering and Regional approval
267 prior to zoning permit?

268
269 Ms. Boni: Before we issue a zoning permit, we'll just make sure Regional Planning has approved the
270 replat and we'd also need a stamp by the Engineer's Office of the Legal Description.

271
272 Ms. Hoffman: For the record, you did say you're on public sewer?

273
274 Mr. Silvestri: Yes.

275
276 Mr. Oster: Which kind of justifies dropping it down.

277
278 Ms. Boni: Mr. Ward, do you accept the motion with the two stipulations?

279
280 Mr. Ward: Yes

281
282 Vote on Motion: Mr. Ward-yes, Ms. Hoffman-yes, Mr. Oster-yes, Ms. Sundar-yes, Mr. Miller-yes
283 Motion carried

284
285 Hearing continued with Application #VA-18-02.

286
287 Minutes prepared by Cindy Davis, Zoning Secretary

288
289 On March 22, 2018, Mr. Miller made a motion to approve the meeting minutes of the Orange Township
290 Board of Zoning Appeals for Variance Application #VA-18-01, Carlo Silvestri, dated February 15, 2018,
291 as written; motion seconded by Ms. Sundar.

292
293 Vote on motion: Mr. Ward-yes, Mr. Miller-yes, Mr. Oster-yes, Ms. Sundar-yes, Ms. Jordan-abstain

294
295 Motion carried.

296

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Application # VA-18-02

Variance Application #VA-18-02, John Angelo Burke LLC. Requesting an Area Variance from Section 7.06(a) of the Orange Township Zoning Resolution to allow for a lot split that will fail to meet the lot area requirement in an area zoned Farm Residential (FR-1) District. The subject property is located at 7034 Africa Road, being Lot Number 7047 of Africa Road Estates subdivision, and having permanent parcel number 318-411-03-009-000.

A court reporter with Runfola Reporters administered the oath to those wishing to speak

Ms. Boni presented the Staff Report and presentation. The Board received a copy of the revised plat tonight showing the proposed split.

Mr. Oster: Now this is the lot that's really going to be affected by the fill and all of that versus the first one we just voted on, correct?

John Burke, 7034 Africa Road, Galena, Ohio, yes.

Mr. Miller: On the 2 plats that were submitted, 18-01 and 18-02, both state that they will be approximately 1.7 acres, 1.707, but on this variance request, it says they have a lot size of 1.608.

Ms. Boni: The variance request materials I provided you before tonight are not correct.

Mr. McCarthy: And just for the record, Ms. Boni, we're working off of the versions that were stamped as having been received today, February 15, 2018 by Orange Township Zoning to both of these applications?

Ms. Boni: Yes.

APPLICANT PRESENTATION/BOARD QUESTIONS & COMMENTS

Ms. Hoffman: Do you have anything to say on this one?

Mr. Burke: Everything is the same as the last one. This lot is adding some land on one side to compensate for the land it's losing, but there's still a net loss overall but it still evens out and the lots are the same size on the front.

MOTION TO APPROVE VARIANCE REQUEST APPLICATION #VA-18-02

Mr. Ward made a motion to approve Variance Request Application #VA-18-02, John Angelo Burke LLC, with the stipulation that we get the Engineer's stamp of approval on the Legal Description and Regional Planning Commission's approval; seconded by Ms. Hoffman.

Vote on Motion: Mr. Ward-yes, Ms. Hoffman-yes, Mr. Oster-yes, Ms. Sundar-yes, Mr. Miller-yes
Motion carried

Ms. Boni: As you know we're having meetings on the Comprehensive Land Use Plan and the next meeting will be February 28, 2018 at 6:30 p.m. We will be going over the Implementation Strategies and we'd love for all members to attend. However, if you can't make it, we'd love your input, just to see what you feel is important, what's not, what to leave in, what to take out. You can email it, I can pick it up, but we'd really appreciate your feedback.

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52 Mr. Ward made a motion to adjourn; seconded by Mr. Miller.
53 Hearing adjourned at 7:40 p.m.

54
55 Minutes prepared by Cindy Davis, Zoning Secretary

56
57 On March 22, 2018, Mr. Miller made a motion to approve the meeting minutes of the Orange Township
58 Board of Zoning Appeals for Variance Application #VA-18-02, John Angelo Burke, LLC, dated February
59 15, 2018 as written; motion seconded by Ms. Sundar.

60
61 Vote on motion: Mr. Ward-yes, Mr. Miller-yes, Mr. Oster-yes, Ms. Sundar-yes, Ms. Jordan-abstain

62
63 Motion carried.

64