

**MINUTES
BOARD OF BUILDING AND ZONING APPEALS**

April 2, 2015

MEMBERS PRESENT: Ken Suchan, Gregg McIlvaine, Stewart Fitz Gibbon, Doug MacMillan and Lukas Gaffey

MEMBERS ABSENT: Tate Emerson and Adrian Eriksen

STAFF PRESENT: Andrew Dutton

I. MINUTES

Doug MacMillan moved to approve the Minutes of February 5, 2015 as received. Gregg McIlvaine seconded the motion. Motion carried by a 5-0 vote.

II. PUBLIC HEARINGS

Appeal #2015-05. James and Tina Wensink for J/L Yocom Trust requesting an area variance to Section 1171.04(c)(1) to allow a freestanding sign larger and taller than permitted at 331 West Liberty Street in a C-4 (Central Business) District.

James and Tina Wensink were present. Mr. Wensink indicated they were the Trustees of the J-L Yocom Trust, owners of the strip mall/Convenient plaza at 331-337 West Liberty Street. Mr. Wensink stated there were four tenants, but only three signs for the businesses. Mr. Wensink stated the building was obstructed due to other buildings within the area. Mr. Wensink stated they wished to install another 2' x 8' sign and indicated the Design & Review Board had approved the signage. Mr. Wensink stated the Design & Review Board requested that all three of the signs be stacked under the existing Convenient store sign and use one pole for all of the signs; the other pole would be removed. Mr. Wensink stated signage was a big issue, and this was the first time in the past two years that he had full occupancy at the building.

Mr. Gaffey stated it was his understanding that the three existing signs consisted of 77-sq. ft. Mr. Wensink stated that was correct; the "check cashing" sign would be added to the top of the existing Convenient sign. Mr. Wensink stated the pole went through the center of the Convenient store sign. Mr. Wensink stated the Convenient store sign would remain as is; the other signage would stack above the existing tattoo sign on its own pole.

Mr. Gaffey questioned if consideration was given to making the three signs smaller in order to comply. Mr. Wensink stated each sign was about \$2,000. Mr. Wensink stated he had also thought about a sign mounted lower, but he was concerned with graffiti.

Mr. Suchan questioned the height of the Convenient store sign. Mr. Wensink stated he believed it was 21'-22'.

Mr. McIlvaine questioned if existing signage exceeded the regulations. Mr. Wensink stated there were four separate parcels that comprised the site, so he was not sure. Mr. Dutton stated because the sign existed on one of the four parcels, it exceeded the regulations.

Mr. McIlvaine stated he was concerned with increasing the allowable signage. Mr. Wensink stated by not providing signage, he would have difficulty leasing the tenant spaces. Mr. Wensink stated with the construction of two new buildings, visibility for his building was blocked.

Mr. MacMillan questioned the size of the signs. Mr. Wensink stated he wanted the signs to look symmetric.

Mr. McIlvaine questioned the life of the signs. Mr. Wensink stated the signs were aluminum polycarbon, and he could not see them wearing out. Mr. McIlvaine questioned if the Board should consider granting a variance with a 5-year term. Mr. MacMillan noted that the Zoning Code currently in place required that all signage be brought into compliance in 2022 – in 7 years. Mr. Wensink stated seven years “would be great”.

Mr. Suchan questioned the Design & Review Board’s review of the signage. Mr. Dutton stated the Board preferred that all signage be placed on one pole and indicated Mr. Wensink would have to go back before the Board to obtain approval of the signage.

Mr. MacMillan questioned the temporary sign that existed. Mr. Wensink stated he had not been involved with that, and it was his understanding a temporary sign permit for the banner had been obtained. Mr. Wensink stated if the temporary sign (Boost Mobile) was not in compliance, he would assist in “making that happen”.

Mr. Gaffey stated he questioned if all of the options had been looked into and whether sign companies had offered suggestions/options. Mr. Suchan noted the increased height. Mr. McIlvaine stated it was an “awful big sign” just to say tattoo. Mr. Wensink stated it was the same size as the Boost Mobile sign (2’). Mr. Wensink stated all three signs were the same size (2’ x 8’). Mr. Fitz Gibbon questioned if consideration was given to installing 2’ x 4’ signs. Mr. Wensink stated he felt they would be too small.

Mr. Wensink stated the appliance store on South Market Street obtained a variance from the Board, and that sign was significantly larger than what he was proposing. Mr. McIlvaine stated the difference was that the Wooster Appliance sign was historically significant.

Mr. Suchan noted that in 2022, all signs in the downtown were to be a maximum of 6’ in height.

Mr. Gaffey opened the hearing up for public comment.

Stewart Fitz Gibbon moved to adjourn to Executive Session.

Gregg McIlvaine seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Stewart Fitz Gibbon voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Stewart Fitz Gibbon moved to come out of Executive Session.

Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Stewart Fitz Gibbon voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Ken Suchan moved to approve the requested variance with the stipulation that there be a time limit of seven (7) years applied to the variance so that it corresponds with the Sign Code regulations which will apply in 2022 and that all signage then be brought into conformance, including the Convenient Mart sign.

Gregg McIlvaine seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes. Mr. McIlvaine stated he felt the proposed sign would aesthetically be an improvement.

Stewart Fitz Gibbon voted yes. Mr. Fitz Gibbon stated to logically have a 4-tenant building with only three signs was a hardship.

Doug MacMillan voted yes citing the reasons indicated by the other Board members.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Appeal #2015-06. Charles Lyons requesting an area variance to Sections 1125.08(a)(1) and 1133.07(b) to allow a recreational vehicle located in the front yard at 1371 Nupp Drive in an R-1 (Suburban Single-Family Residential) District.

Chuck Lyons stated he moved to the property in 1979, and at that time, the property was not within the City limits. Mr. Lyons stated he had been parking recreational-type vehicles on the property (boats, motor homes, trailers) since 1979. Mr. Lyons stated since 1984, he had parked a boat in that location that ranged in size from 16' to 25', and one was 12' high. Mr. Lyons stated he then purchased a 30' motor home and then a 36' motor home. Mr. Lyons stated in order for him to move the motor home to comply, he would have to have an asphalt/cement pad and it would need to be located to the rear of the property. Mr. Lyons stated in order to keep it in the side yard, he would have to cut down at least five pine trees or sap would bleed down onto the rubber roof of the motor home which would destroy the roof. Mr. Lyons stated directly behind the motor home was a 25' maple tree which would also need to be removed but noted the access to the deck would then be blocked and would need to be changed. Mr. Lyons stated his wife was on oxygen, and the motor home had all of the equipment in it that his wife would need if the gas or electric went out. Mr. Lyons stated the wind came mostly from the west, and the exhaust for the engine and the generator was on the driver's side and currently the exhaust flowed under the motor home and up the street; if it were back beside the house, it would go underneath the motor home, against the house, and would pool up right there.

Larry Shields, 1348 Nupp Drive, stated the motor home did not offend him in any way. Mr. Shields stated the motor home was very well maintained, and the location where it was placed did not offend him. Mr. Shields stated the lots in the area were narrow and long, and the motor home did

not even come close to the public right-of-way. By moving it another 15' back, Mr. Lyons indicated that would have no effect. Mr. Lyons stated he had talked with all but two of the neighbors in the area, and they all had similar feelings.

Mr. Gaffey questioned if Staff had received any calls/e-mails with respect to the variance. Mr. Dutton stated no.

David Silvestri, 645 Ridgewood Drive, stated he felt that what Mr. Lyons would have to do to come into compliance created a hardship, and the amount that would be gained by coming into compliance was minimal, especially since the surrounding neighbors did not have an issue with the current location. Mr. Silvestri stated he felt there was an added need because of health issues and the need it served.

Mr. MacMillan noted that the motor home did sit "way out of the way" and did not create a line of sight problem. Mr. Silvestri stated there was really no reason to go down Nupp Drive unless you lived there, and the motor home was not as visible. Mr. MacMillan stated the Board had to be careful in setting a precedent noting there were other boats and RV's in the Nupp Drive neighborhood. Mr. Silvestri stated to create the concrete area, trees would have to be removed and access to the deck would be blocked. Mr. Silvestri stated he did not feel that it was best to sacrifice trees just to "slide the RV back".

Mr. McIlvaine questioned what timeframe he felt was needed, should the Board grant a variance. Mr. Lyons stated with his wife's current health issues, he planned to continue to live at the property and needed it for its oxygen capabilities. Mr. McIlvaine stated the Board could grant the variance for a 5-year time limit, and he could always come back before the Board and ask for an extension. Mr. Lyons stated he would like it for 7-8 years if possible.

Mr. Fitz Gibbon questioned the Code change relating to "front setback" and "front yard". Mr. Dutton stated one section of the Code read that you could not have an RV in the front yard and another section of the Code said you could not have an RV in the front setback. Mr. Dutton stated the previous Code only referenced "yard", and he was not certain why that was changed. Mr. Fitz Gibbon questioned if it was done because of aesthetics. Mr. Dutton stated one house could have a 5' setback, and yet another could have a front yard of 100' and because it varied so much, he felt that was the reason for the Code change. Mr. Lyons stated the motor home was about 50' from the road and was 25' from the required 25' setback.

Mr. MacMillan questioned the current setback of the mobile home. Mr. Lyons stated it was 50' from the road to the front of the motor home.

Ken Suchan moved to adjourn to Executive Session.

Doug MacMillan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Stewart Fitz Gibbon voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Stewart Fitz Gibbon moved to come out of Executive Session.

Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Stewart Fitz Gibbon voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Gregg McIlvaine moved to approve the requested variance. Mr. McIlvaine stated although he was hesitant to make the precedent because the City had good reason for regulating where RV's and boats were parked, he indicated the homeowner bought the home long before the regulations were in place and the setback was adequate. Mr. McIlvaine further noted there was no safety issue involved and there were no objections from the neighbors. Mr. McIlvaine added the condition that an 8-year limitation be added at which time the applicant would then need to come back before the Board and reapply.

Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Stewart Fitz Gibbon voted yes. Mr. Fitz Gibbon stated he was voting yes because of all of the reasons outlined by Mr. McIlvaine.

Doug MacMillan voted yes.

Lukas Gaffey voted yes, based on the 8-year limitation. Mr. Gaffey stated he did not feel the Board was necessarily setting a precedent primarily because of the health issues which were outlined.

Motion carried by a 5-0 vote.

Appeal #2015-07. Paul Magee of LetterGraphics for LUK USA LLC requesting an area variance to Section 1171.04(a), Note C, to allow a building sign to be placed on a side of the building not considered a building frontage at 3401 Old Airport Road in an M-2 (General Manufacturing) District.

Chris Butdorf, LetterGraphics, on behalf of LUK USA, stated LUK was looking to replace existing signage on four corners of the building. Mr. Butdorf stated the issue was not one of square footage of the sign because of the large structure, but rather because the east elevation of the building technically did not face a given road. Mr. Butdorf stated that corner of the building had two existing large sign panels on it which would be removed and replaced with the Schaeffler LUK sign proposed. Mr. Butdorf stated it was felt the signage was needed to maintain visibility as it was the primary visibility for traffic that approached Wooster from SR 585 both north and east. Mr. Butdorf stated as of right now, when the farm crops grew in the summertime, the south elevation was almost rendered invisible whereas the east elevation provided a great deal of visibility.

Mr. Fitz Gibbon expressed concern with there being a building constructed on the property currently being farmed and how that business might view the LUK signage. Mr. Butdorf noted that Schaeffler LUK also owned that property (cornfield).

Mr. Butdorf stated it was an usually large piece of property and structure, and the way it sat on the property was unusual.

Mr. MacMillan stated he liked that signage was proposed on the building and not “way up” on a pole.

Mr. Suchan questioned signage for Daisy. Mr. Dutton stated Daisy had not yet applied for a sign permit.

Mr. Gaffey opened the hearing up for public comment.

Doug MacMillan voted to accept the proposal as submitted. Mr. MacMillan stated he was making the motion in the affirmative because the proposed signage was replacing existing signage and was not being put on a new face of the building. Mr. Suchan stated it was an unusual lot circumstance and not typical elsewhere.

Stewart Fitz Gibbon seconded the motion.

Stewart Fitz Gibbon voted yes.

Doug MacMillan voted yes.

Gregg McIlvaine voted yes.

Ken Suchan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Appeal #2015-08. Carl Yacapraro requesting the substitution of a nonconforming use from a general household goods retail/wholesale use to a contractor facility use at 736 West Liberty Street in an R-2 (Single Family Residential) District.

Carl Yacapraro, acting as an agent for his father, stated the building was originally constructed as a commercial building, and there had been uses to varying degrees to the back of the building. Mr. Yacapraro stated they had been permitted to use the lower level of the building for commercial purposes which was the best and most reasonably suited use based on the surrounding area while maintaining residential uses above. Mr. Yacapraro stated the commercial use was that of a heating/ventilating contractor, and its intensity was not substantially different from other uses that had operated out of the building. Mr. Yacapraro stated there was a heavy truck garage “across the parking lot” and was a loud industrial-type area to begin with. Mr. Yacapraro stated with regard to the heating/ventilating operation, 80-90% of the business was “out in the field”, so the building was likely empty more often than it was occupied. Mr. Yacapraro indicated Mr. Roberts stored his equipment and materials inside the building and his office was located in the building as well but that once in a while, Mr. Roberts had to assemble a few things prior to going to a job. Mr. Yacapraro stated it was, more or less, a storage facility for Mr. Roberts’ heating/ventilating business.

Mr. MacMillan questioned if the building was only being occupied by Mr. Roberts. Mr. Yacapraro stated yes—he was the only tenant in the lower level. Mr. MacMillan questioned if Mr. Roberts had employees. Mr. Yacapraro stated the business included Mr. Roberts and one other employee.

Mr. McIlvaine questioned who the prior tenant was of the building. Mr. Yacapraro stated it was for his own use for restaurant equipment storage. Prior to that, John Drouhard had a storage warehouse and a workshop where he repaired/worked on store returns.

Mr. McIlvaine questioned the residential use of the property. Mr. Yacapraro stated there were two apartments located above.

Mr. Suchan stated the business did not have frontage on Liberty Street. Mr. Yacapraro stated that was correct; access to the business was from the rear of the property. Mr. Yacapraro stated there was a parking lot to the rear.

Mr. Gaffey questioned how often equipment would sit outside. Mr. Roberts stated he had another property he usually kept the equipment on.

Mr. MacMillan questioned if he had received any calls regarding the request. Mr. Dutton stated he received a call from one of the upstairs tenants. Mr. Yacapraro stated they may need to invest in some soundproofing but ultimately it was an economic decision of what made the best sense. Mr. McIlvaine questioned if the tenant was provided notice of the appeal. Mr. Dutton stated the tenant asked to be notified of when the appeal would be heard but had not received any formal notification.

Mr. MacMillan questioned the hours of operation for the business. Mr. Roberts stated it was strictly regular business hours. Mr. Roberts stated he had been there for a year and a half, and the tenants had just moved in about two months ago and that the tenant had come down to complain to him about the noise. Mr. Yacapraro stated there was noise from PCS Metals and other industrial uses in the area. Mr. Yacapraro stated it was a challenge to have residential uses in the area.

Mr. Fitz Gibbon questioned the Board's evaluation of the use substitution. Mr. Dutton stated the Code read, *"That the Board finds that the use proposed was equally appropriate or more appropriate to the district than the existing nonconforming use, and that the use proposed was in less conflict with the character of uses permitted in the applicable zoning district than the existing nonconforming use"*.

Mr. Gaffey stated on other similar appeals the Board had reviewed, it had put restrictions on the granting of the appeal including no overnight parking and no leaving equipment outside, overnight, or for extended periods of time. Mr. MacMillan stated in this case, though, the area included truck traffic but acknowledged that the property was zoned residentially. Mr. MacMillan further noted that there had been a continuous business operation from the property as well, and felt there was less activity than what a retail business had.

Mr. Fitz Gibbon questioned if there would be objection to limiting the hours, given the residences above. Mr. Fitz Gibbon stated the intent of the Code was that as the uses changed, they become lighter in nature until it would eventually go away.

Mr. Gaffey opened the hearing up for public comment.

Stewart Fitz Gibbon moved to approve the appeal with the stipulation of the business hours being from 8:00 a.m. until 6:00 p.m. and that no large equipment be stored outside of the building.

Mr. Dutton asked for clarification as to the number of days a week the business could operate. Mr. Fitz Gibbon amended the motion to include "Monday through Saturday".

Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Stewart Fitz Gibbon voted yes.

Doug MacMillan stated he looked at the request as a continuation of a similar business and activity, and maybe even a little less since it was not a retail operation. Mr. MacMillan voted yes.

Lukas Gaffey voted yes based on Mr. MacMillan's comments.

Motion carried by a 5-0 vote.

Meeting adjourned at 6:45 p.m.

Lukas Gaffey, Vice Chairman

Laurie Hart, Administrative Assistant