

**MINUTES
BOARD OF BUILDING AND ZONING APPEALS**

November 5, 2015

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

MEMBERS ABSENT: Gregg McIlvaine and Tate Emerson

STAFF PRESENT: Andrew Dutton

I. MINUTES

Ken Suchan moved to approve the Minutes of September 3, 2015 as received. Doug MacMillan seconded the motion. Motion carried by a 4-0 vote.

II. PUBLIC HEARINGS

Appeal #2015-32. M. Blake Stone requesting an area variance from Planning and Zoning Code Section 1169.04 to allow fewer off-street parking spaces than required at 231 North Buckeye Street in a C-1 (Office and Institutional) District.

M. Blake Stone stated Jessie's Nails wished to locate on the upper floor which had been vacant for nine years, although he had a tenant who would be relocating soon. Mr. Stone stated his business had been at that location since 1978. Mr. Stone stated there were 33 parking spaces on the property but that the Zoning Code required 39 parking spaces for all the businesses. Mr. Stone stated he did not feel that all 33 parking spaces would be exhausted with the uses. Mr. Stone stated Jessie's Nails provided personal services which was why the requirement for parking increased. Mr. Stone stated there would be no negative effects to the neighborhood as a result of the business.

Mr. Gaffey questioned the existing uses in the building. Mr. Stone stated there was a chiropractor (Dr. Ross) on the first floor, and he also occupied his business there (attorney). Mr. Gaffey questioned how much parking was used by the existing businesses at the busiest time, and Mr. Stone indicated 5-6 parking spaces for both businesses.

Mr. Suchan questioned how many workstations there would be for the proposed business. Jessica McClintock, Jessie's Nails, stated there were six employees, not including herself, for the business which meant at any given time, there would be 7 customers or 14 parking spaces. Mr. Gaffey questioned if there was room for expansion. Ms. McClintock stated if she did expand, she would only add 1-2 more employees.

Mr. Gaffey noted that parking spaces #19, #20 and #21 might not meet the parking requirements (size). Mr. Dutton stated that was correct, but it would only be a reduction in a space (32 provided as opposed to 33).

Mr. Suchan noted that the property was surrounded by the C-4 District, and the C-4 District did not require any parking for the uses. Mr. Suchan stated the property in question was "right on the cusp" of not needing parking for the businesses (if located in the C-4 District).

Mr. Fitz Gibbon questioned, on average, what the anticipated parking usage would be for all three businesses. Mr. Stone stated he felt the need for parking would be less than 20 spaces.

Mr. Gaffey questioned if the Board approved the variance, if it were only approving it for this particular instance/for the businesses in question. Mr. Dutton stated if the chiropractor business moved out and a similar use went in, a variance would not be needed—only if the use was greater in intensity would Board approval be needed.

Mr. Gaffey opened the hearing for public comment.

Stewart Fitz Gibbon moved to approve the variance as requested. Ken Suchan seconded the motion.

Ken Suchan voted yes. Mr. Suchan stated he felt it was a reasonable accommodation given that it was right on the edge of the downtown and also that there was a huge public parking lot right across the street.

Stewart Fitz Gibbon voted yes for the reasons that Mr. Suchan had indicated and because the neighborhood analysis which was presented with the request was in support of the variance.

Doug MacMillan voted yes on the basis of what Mr. Suchan and Mr. Fitz Gibbon both said.

Lukas Gaffey voted yes based on the points by the other members.

Motion carried by a 4-0 vote.

Appeal #2015-33. Robert Reynolds, representing Kathryn Jerisek, requesting a use variance from Planning and Zoning Code Section 1133.02 to allow a two family dwelling use at 537 Bloomington Avenue in an R-1 (Suburban Single Family Residential) District.

Bob Reynolds, representing Kathy Jerisek, stated the house was located just east of the Overholt House Bed & Breakfast and was bordered on the south by the parking lot to the College of Wooster's support building. Mr. Reynolds stated Ms. Jerisek acquired the property with her mother in 1994 and, at that time, it was a working duplex with a full kitchen upstairs and downstairs. Mr. Reynolds stated a year later, an internal door was added so that Ms. Jerisek could better check on her mother but two households were still maintained. Mr. Reynolds indicated that Ms. Jerisek's mother went into a nursing home in 2008 and, at that point, Ms. Jerisek rented out one of the units and lived in another. In the middle of 2014, Mr. Reynolds indicated Ms. Jerisek was looking to move, lost her tenant and did not try to re-let it. Mr. Reynolds stated in 2015, when the City went to the curbside pick-up of receptacles, Ms. Jerisek began receiving two trash bills. When Ms. Jerisek contacted the City about that, she was advised to fill out paperwork with the County but did not realize she was filing paperwork to declare the home as a single family residence. Mr. Reynolds stated, however, that because the property had been vacant for over a year, Board approval was needed anyway to re-establish the use. Mr. Reynolds stated the property was on the border of an R-2 neighborhood, and duplexes were conditional uses in the R-2 District. Mr. Reynolds stated he believe the application satisfied all of the criteria for a use variance. Mr. Reynolds stated the request was not to change the use as the home was built as a duplex. Mr. Reynolds indicated that for Ms. Jerisek to sell the property as a single family, she would have to remodel the upstairs and covert the kitchen into a bedroom and given the neighborhood and the age of the house, Ms. Jerisek would take a hit, financially.

Mr. Suchan questioned why the upstairs was not rented in the 1-year timeframe. Kathy Jerisek stated she did not want anyone residing in the space while she was trying to sell it.

Mr. Suchan questioned when the home was converted into a duplex. Ms. Jerisek stated when she purchased the home 20 years ago, it was already established as a duplex.

Mr. Suchan noted that at the time the zoning was put into place, the property was not incorporated into the R-2 District even though it was being used as a duplex.

Mr. Gaffey questioned if there was anyone present to speak to the appeal.

Mr. Gaffey questioned if any neighbors had contacted Staff regarding the request. Mr. Dutton stated no.

Stewart Fitz Gibbon moved to adjourn to Executive Session. Doug MacMillan seconded the motion.

Ken Suchan voted yes.

Stewart Fitz Gibbon voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 4-0 vote.

Doug MacMillan moved to go back into Regular Session. Ken Suchan seconded the motion.

Ken Suchan voted yes.

Stewart Fitz Gibbon voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 4-0 vote.

Lynn Semer, 1393 North Smyser Road, owner of the house at 580 Bloomington, stated she was familiar with the area and was the listing agent on the property. Ms. Semer stated she owned the property since 1995 and it was rented as a single family dwelling. Ms. Semer stated across the street, approximately three homes to the east of Ms. Jerisek's property, was a duplex which was located in the R-1 District. Directly across from Ms. Jerisek's property was the former location of Lehr Plumbing & Heating along with other duplexes. Ms. Semer stated it was discovered during the appraisal process that the home was considered to be a single family dwelling and that an Affidavit had been signed with the County to indicate the property was a single family dwelling.

Mr. Reynolds noted that there were tenants ready to move into the property and that there was a buyer for the property should the variance be granted.

Stewart Fitz Gibbon moved to grant the variance request as presented. Doug MacMillan seconded the motion.

Stewart Fitz Gibbon voted yes. Mr. Fitz Gibbon stated because of the particular circumstances, it created a hardship in terms of the timing. Mr. Fitz Gibbon stated he was also persuaded by the lack of comment from the neighborhood against the request. Mr. Fitz Gibbon stated it was also a mixed, borderline use between R-1 and R-2 Districts. Mr. Fitz Gibbon stated it was also unclear whether the property was ever a single family use, so the Board was continuing something that had been in place prior to the Zoning Code.

Doug MacMillan voted yes, citing Mr. Fitz Gibbon's reasons.

Ken Suchan voted yes for the reasons cited by Mr. Fitz Gibbon.

Lukas Gaffey voted yes for the reasons Mr. Fitz Gibbon outlined.

Motion carried by a 4-0 vote.

Appeal #2015-34. Chris Butdorf of Lettergraphics, representing Consumers National Bank, requesting an area variance from Planning and Zoning Code Section 1171.04(a)(2) to allow building signage exceeding the maximum area permitted at 146 East Liberty Street in a C-4 (Central Business) District.

Mr. Fitz Gibbon indicated he was President/CEO of Wayne Savings Community Bank, and Consumers National Bank could be considered a competitor, but he had consulted with the Law Director of the City who believed there to be no direct material effect and would not affect his ability to hear the case.

Chris Butdorf, LetterGraphics, stated the building was unique in the Downtown because it had a relatively small storefront and was more of an "indoor mall" because there were a number of tenants within the building. Mr. Butdorf stated the building owner had granted permission to Templeton's as well as Consumer's National Bank to have signage on the outside of the building—both very small with Templeton's being 5-sq. ft. and Consumer's National Bank being 6-sq. ft. Mr. Butdorf stated the overall square footage of signage permitted, based on the frontage, was exceeded by "a few square feet". Mr. Butdorf stated to reduce the square footage of the sign to conform would make the sign useless. Mr. Butdorf stated Templeton's already had external signage which was why Consumer's National was before the Board. Mr. Dutton stated signage had been approved for Templeton's for interior/window signage.

Mr. Fitz Gibbon stated, as he understood it, that Consumer's National signage would be 3-sq. ft. over the maximum allowed and that Consumer's was essentially the "unlucky one" to come last. Mr. Suchan noted that the Liberty Street Commons sign was 9-sq. ft.; the Liberty Street Marketplace sign was 11-sq. ft.

Mr. MacMillan stated the sign was tasteful but that he hated to set a precedent. Mr. Suchan noted the sign had already been erected. Mr. Butdorf stated yes—they put the cart before the horse. Mr. Suchan questioned if signage had been reviewed by the Design & Review Board. Mr. Butdorf stated yes—and the sign had been approved.

Mr. Fitz Gibbon noted that all signage had to be in compliance by 2022 so, essentially, the signage for the building would need to be reconfigured.

Mr. Fitz Gibbon stated if "business lending" were omitted from the sign, he felt the sign would be close to meeting the regulations. Mr. Butdorf stated he had suggested to the building owner to revisit signage for the building and to come up with a plan to avoid these types of issues in the future. Mr. Fitz Gibbon stated having a plan for building signage may have avoided the need for a variance. Mr. Butdorf agreed. Mr. Butdorf stated he believed the building owner was unaware of the sign regulations when the tenants were given permission to place signs on the building. Mr. Dutton stated because the building consisted of multiple tenants on multiple floors, it made signage for the building more difficult.

Mr. Gaffey questioned window signage. Mr. Dutton stated it would be considered signage if it was visible from standing outside. Mr. Dutton stated there was a multi-tenant sign on the building that

lists the tenants but was more of a pedestrian scale. Mr. Gaffey noted that the multi-tenant sign was 18-sq. ft.

Mr. Butdorf stated the sign did not look like it had been “shoehorned in” when looking at other signage within the downtown. Mr. Butdorf stated the sign was occupying an appropriate sign band within the building.

Mr. Suchan noted that the Design & Review Board approved signage for all three signs—Marketplace sign, Consumers National and Templetons. Mr. Gaffey agreed it was tastefully done and fit the aesthetics of the downtown area and maintained the clean appeal. Mr. Suchan noted it was a 5% deviation from what was permitted which he felt was minimal. Mr. MacMillan agreed that the request was “pretty minor”. Mr. Gaffey also noted the sign was not illuminated.

Mr. Fitz Gibbon noted that if the Board granted the variance, it would be a permanent variance for the building. Mr. Gaffey stated the Board could say that the variance was approved specifically for Consumers National Bank. Mr. MacMillan stated he felt a 5% variance for the building, especially since it was “like a mall”, was not asking too much. Mr. Fitz Gibbon stated he felt that, at some point, there needed to be a plan for signage for the entire building because right now, it was more of a “crap shoot” of who asks...and when. Mr. Butdorf noted that, at this point, should the variance be granted, no other tenant would need to request additional signage from the Board. Mr. Fitz Gibbon questioned if there were still vacancies in the building. Mr. Butdorf stated there were other businesses currently in the building that did not have that kind of exposure. Mr. Gaffey noted that some of the tenants had signage to the rear of the building/parking lot side.

Mr. Butdorf stated he did his best to design signs within the Code unless it was felt that the Code was unduly restrictive. Mr. Butdorf stated there would always be the “shoe that just did not quite fit”. Mr. Butdorf stated if there was ever a case in downtown Wooster, he felt this was one of them—this was the only building like it in downtown Wooster/on Liberty Street because of the multiple tenants. Mr. MacMillan agreed. Mr. Gaffey stated he felt the Board would not be setting a precedent because of the unique situation of the building.

Doug MacMillan moved to approve the request as presented. Ken Suchan seconded the motion.

Ken Suchan voted yes.

Stewart Fitz Gibbon voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes. Mr. Gaffey stated the building was very unique within the downtown, that signage had been approved by the Design & Review Board, no one was in opposition, and that the sign was aesthetically fitting and complimentary to the overall appeal and look of the downtown.

Motion carried by a 4-0 vote.

Meeting adjourned at 6:53 p.m.

Lukas Gaffey, Chairman

Laurie Hart, Administrative Assistant