

**MINUTES
BOARD OF BUILDING AND ZONING APPEALS**

September 3, 2015

MEMBERS PRESENT: Stewart Fitz Gibbon, Doug MacMillan, Ken Suchan and Tate Emerson

MEMBERS ABSENT: Lukas Gaffey, Gregg McIlvaine and Adrian Eriksen

STAFF PRESENT: Andrew Dutton

I. MINUTES

Ken Suchan moved to approve the Minutes of August 6, 2015 as received. Doug MacMillan seconded the motion. Motion failed due to a lack of majority vote by a 3-0-1 vote, Stewart Fitz Gibbon abstaining.

II. PUBLIC HEARINGS

Appeal #2015-27. Matthew Long of Critchfield, Critchfield and Johnston, Ltd. representing Gebcon Properties, Ltd. requesting an area variance from Planning and Zoning Code Section 1135.03(a) regarding minimum development area, Section 1135.03(b) and (f) regarding minimum frontage and Section 1135.04(a) and (e) regarding building and parking within the required setbacks and to allow buildings closer together than required at 1141 Mindy Lane in an R-4 (Multi-Family Residential) District.

Matthew Long, Critchfield, Christfield and Johnston, Ltd., stated in March, 2014 a similar variance application was filed and approved by the Board, and the one year timeline for construction of the improvements as outlined in that application had since expired. Mr. Long stated re-approval of the variance was being requested.

Mr. Long stated the lot in question was located on Mindy Lane and was vacant. Mr. Long stated within the current Zoning Code, the lot would be marginally undevelopable without variances. Mr. Long stated the narrative within the application detailed the request for the variance.

Mr. Emerson questioned if the other lots were developed prior to the 2007 Zoning Code update. Mr. Long stated yes.

Mr. Suchan noted that the duplex would be turned sideways so that there would not be the same appearance of garages along Mindy Lane. Mr. Long stated the proposal was to model the Cottagewood/Redwood development which existed as they were the owners of that development as well. Mr. Long stated by turning the duplex 90°, it made for a better, developable lot. Mr. Long stated Redwood liked low density, high quality, 2-bedroom units with garages and the units would be at the upper scale of the rental market. Mr. Suchan noted that the other lots consisted of 4-unit dwellings, so the proposal was for less density (2-unit). Mr. Long stated that was correct.

Mr. Emerson questioned if the design had changed since the variance was approved. Mr. Long stated no—the variance application was the same.

Mr. Suchan noted that there would not be a “sea of parking” in the front like the other units within the development.

Mr. Fitz Gibbon noted that the proposed use was very consistent with the other uses “up and down the street”.

Mr. Emerson opened the hearing for public comment.

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

Ken Suchan voted yes. Mr. Suchan stated he felt the reduction in density was a good thing and the variances were minimal.

Doug MacMillan voted yes, agreeing with Mr. Suchan.

Stewart Fitz Gibbon voted yes, agreeing with Mr. Suchan’s summary.

Tate Emerson voted yes.

Motion carried by a 4-0 vote.

Appeal #2015-28. Mary Lloyd of Outreach Community Living Services, Inc. requesting a use variance from Planning and Zoning Code Section 1149.03(c)(2) to allow an accessory structure to a nonconforming use at 337 West North Street in an R-T (Traditional Residential) District.

Mary Lloyd, Executive Director of Outreach Community Living Services, stated a use variance was being requested for a proposed garage to the rear of the property. Ms. Lloyd stated the purpose of the garage would be to house their four vans which were used to transport developmentally disabled individuals. Beverly Theil, a Board member, was also present. Ms. Lloyd stated that traffic along North Street and the alley would not be disturbed; Ms. Lloyd noted that most of the properties in the area were commercial in nature.

Mr. Suchan questioned access to the garage. Ms. Lloyd stated the garage could be accessed from the alley but could also be from the front entrance off of North Street.

Mr. Emerson questioned if rezoning the property to C-4 was an option. Mr. Dutton stated yes—the full rezoning process would take approximately four months. Mr. Dutton stated he was not sure why the property was part of the R-T District since it had obviously not been residential for quite some time. Ms. Theil stated when Outreach purchased the properties, two of the lots were too small to be developed residentially, even though they were located in a residential area. Ms. Theil stated Outreach planned

to combine the three parcels into one lot. Ms. Theil stated the garage was needed due to vandalism of the vehicles. Ms. Theil stated their insurance company had asked them to reduce their risks, and they needed the vehicles to get people to their jobs, workshop and doctor. Mr. Suchan stated the original parcel consisted of two living units which had since ceased to exist which may have been the reason why the property was included in a residential zoning district since the property was not always used solely as an office building.

Ms. Theil noted that the look of the proposed building (garage) would be in keeping with the large garage which existed on the other side of the alley.

Mr. Emerson questioned the criteria for granting a use variance. Ms. Theil noted the garage would be placed on an existing parking lot. Ms. Lloyd stated the garage was needed to secure their vehicles without being a detriment to the neighborhood.

Mr. Dutton noted that the 2000 zoning map showed the property as being zoned commercial, and he was uncertain why it went from residential to commercial and then back to residential.

Mr. Fitz Gibbon questioned if variances would be required if the garage were located in a commercial district. Mr. Dutton stated the setbacks may be an issue, but that a use variance would not be needed. Mr. Emerson questioned if the R-T setbacks were met with the proposed garage. Mr. Dutton stated yes.

Mr. Emerson opened the hearing for public comment.

Doug MacMillan moved to approve the request. Mr. MacMillan stated at one point, the property was zoned commercially, and having a garage made sense.

Stewart Fitz Gibbon seconded the motion.

Stewart Fitz Gibbon voted yes. Mr. Fitz Gibbon stated given the nature of the use and the prior commercial zoning, it was consistent with the neighborhood.

Ken Suchan voted yes. Mr. Suchan stated given the amount of vandalism in the area, parking the vehicles outside made for a safety hazard.

Doug MacMillan voted yes. Mr. MacMillan stated the property had been zoned commercially.

Tate Emerson voted yes. Mr. Emerson stated he felt the criteria had been met and the request followed the spirit and intent of the Zoning Code.

Motion carried by a 4-0 vote.

Appeal #2015-29. Tim Coerver of DS Architecture for Dunkin' Donuts requesting an area variance from Planning and Zoning Code Section 1141.06 (a)(2) to allow a parking space within the side setback, Section 1169.04(d)(6) regarding a reduction in

the required number of off-street parking spaces and Section 1169.13(b) regarding the location of a loading space in an access drive at 1812 Cleveland Road in a C-2 (Neighborhood Business) District.

Mr. Dutton stated during the Planning Commission's review, there was a discrepancy about the loading zone and the hours it would be in use. Mr. Dutton stated an additional variance to Section 1169.13(b) was added regarding the location of the loading space in the access drive. In the initial application, Dunkin' Donuts had indicated that deliveries would occur after business hours, and it was later determined they would actually occur during business hours.

Jeff Myers, Architect for Dunkin' Donuts, stated the site in question was the location of a former bank with curb cuts off of Cleveland Road and Kurtz. Mr. Myers stated Dunkin' Donuts would locate within the existing footprint of the building. Mr. Myers indicated there was no storm drainage on the site which meant it all went to the curb and street. The City Engineer was working with Dunkin' Donuts' engineer to make sure that no additional parking or sidewalk areas would be increased from what existed currently. Mr. Myers stated grass would exist on the front of the building and along the sides. Mr. Myers stated by having 2-lanes of circulation around the building, if the drive-thru backed up, vehicles could still go around without backing up traffic on Cleveland Road. Mr. Myers stated the stormwater also reduced the drive-thru lane down to one lane versus what Dunkin' Donuts typically liked to have which was two drive-thru lanes—one for the actual drive-thru and one for a by-pass. Mr. Myers stated since they could not add the additional paving, the parking had to be provided to the rear; the parking area for the loading/unloading was 12' from the parking area to the rear, and vehicles could still get around and could also still get through the drive-thru lane.

Kelly Barbie stated that for the Ashland, Ohio store, deliveries were made twice a week but because the Wooster store would have increased refrigeration and freezer area, it was likely there would only be one delivery per week to the site. Ms. Barbie stated at a maximum, it took 20 minutes to unload the delivery.

Mr. Myers stated 24 parking spaces were provided and, typically, Dunkin' Donuts needed about 20 spaces at most; 32 parking spaces were required per the Zoning Code regulations. Mr. Myers stated there was room to add parking on the site, but the City Engineer was asking that the impervious area (pavement) not be increased. Mr. Myers stated the requirements of the City Engineering Office and the Zoning Code did not align in this situation. Mr. Myers stated most of Dunkin' Donuts business occurred through the drive-thru, so they did not require the number of parking spaces that a traditional sit-down restaurant would.

Mr. Myers stated the odd-shaped lot created some of the issues with the side setback. Mr. Suchan stated it appeared that some of the grass would be restored along the northern property line. Mr. Myers stated that was correct. Mr. Myers stated there was also a separate lot, owned by the same person, which was a required buffer lot to the residential properties, and Dunkin' Donuts would be maintaining that as a buffer area. Mr. Myers indicated that where there was an increase to the impervious area on the site, they tried to reduce the impervious area in other locations on other parts of the

site. Mr. Myers stated the parking spaces to the east would likely be used for employee parking.

Mr. Suchan questioned if Baskin Robbins would also be part of the building. Mr. Myers stated yes. Mr. Suchan questioned if the drive-thru would accommodate both ice cream and donuts. Mr. Myers stated yes. Mr. Myers stated most of the Dunkin' Donuts traffic was coffee which had more of a "morning peak"; Baskin Robbins was more of an "afternoon peak". Mr. MacMillan questioned if the basement area would be used. Mr. Myers stated the thought was for that area to be rented out for birthday parties for kids. Mr. Suchan stated one of the reasons for the parking deficiency was because the basement space was being counted towards dining space. Mr. Myers stated it was not likely that there would be a birthday party "on a Wednesday morning from 6-9:00 a.m." when most of the traffic was there; parties would likely occur during an evening or weekend.

Mr. MacMillan questioned whether anyone had contacted the Planning Department regarding the request. Mr. Dutton stated no.

Mr. Emerson questioned if the loading space would be marked as a loading space so that drivers knew to park there. Mr. Myers stated Dunkin' Donuts would be willing to do that.

Mr. Suchan questioned when deliveries normally happened. Ms. Barbie stated what would be the norm now, might not be the norm next year. Mr. Emerson stated presently, it would be two deliveries per week at 20 minutes per delivery, and that would only mean the area would be occupied 40 minutes a week. Ms. Barbie stated Monday and Thursdays were typically the slowest days for Dunkin' Donuts which was when deliveries would likely occur; deliveries were typically made in mid-afternoon. Mr. Myers stated there were other restaurants within the City that had a similar configuration (McDonald's) and was not uncommon.

Mr. Emerson opened the hearing for public comment.

Jack Gant, realtor, stated he represented the neighbor to the north (former location of Martin Jewelers) and asked that when they came before the Board for a variance, that it be granted "the same thing". Mr. Gant stated he felt Dunkin' Donuts would be a great neighbor, but they did not want to get penalized down the line for the property his client owned next door. Mr. Gant noted there would be no landscaping between the two properties. Mr. Myers stated it was Dunkin' Donuts goal to not harm the two existing trees that were located near where the curb would be.

Mr. Myers stated he thought the owner of the property (Arora) would be amenable to there being a cross-use access easement between the properties so that people could go from one commercial area to the other. Mr. Myers indicated that Mr. Dutton had reviewed the landscaping for the site and was comfortable that the site plan met the intent of the Zoning Code regulations from a plantings standpoint. Mr. Dutton stated the Planning Commission made a condition that any of the landscaping which would be

retained, should it get damaged, would need to be replaced with an approved, similar tree.

Mr. Gant stated the Cleveland Clinic had a parking lot north of Martin's and thought there was a retention pond there. Mr. Myers stated because of the slope of the lot, there really was not an option for a retention or detention area on the site. Mr. Gant questioned if there would be an "entrance" sign that would be next to the property. Mr. Myers stated the sign would be on the opposite side of the access drive (south side of the curb cut); there would also be a sign placed on Kurtz.

Mr. Emerson questioned the handicapped parking spaces on the site. Mr. Myers stated handicapped parking needed to be as close to the entrance of the building as possible, and they were planned to be as close to the building as was possible.

Ken Suchan moved to approve the variance request with the stipulation that the loading space be designated in the pavement in some fashion. Stewart Fitz Gibbon seconded the motion.

Ken Suchan voted yes.

Doug MacMillan voted yes.

Stewart Fitz Gibbon voted yes. Mr. Fitz Gibbon stated he thought it was a nice re-development of what would otherwise be a challenging situation, and they had made every reasonable effort to comply.

Tate Emerson voted yes.

Motion carried by a 4-0 vote.

Appeal #2015-30. Christopher Siart representing Daisy Brand requesting an area variance from Planning and Zoning Code Section 1143.04(b)(1)B. to allow a building within required side and rear setbacks at 3600 North Geyers Chapel Road in M-2 (General Manufacturing) and M-4 (Open Space/Heavy Manufacturing) Districts.

Brian Barth, Daisy Brand, stated an area variance was being requested to allow a building within the required side and rear setbacks. Mr. Barth stated in 2013, Daisy received approval to construct both the plant and the waste treatment facility, and in 2014, they broke ground and have been in construction since then. Mr. Barth stated they began detailed design of the waste treatment facility 4-5 months ago, and the size and location of the waste treatment facility had changed slightly since the original plans were approved. Mr. Barth stated the site was comprised of two properties with an internal property line, and an attempt was made to change that line, but it could not be done because of school district boundary lines. Mr. Barth stated the revised location of the waste treatment plant was now located on an internal property line, thereby necessitating a 0' setback variance request. David Olson, Dennis Group, Engineers for Daisy Brand, noted the building came up to the property line but did not cross the property line.

Mr. Suchan questioned if the property lines existed at the time Daisy purchased the property. Mr. Barth stated he believed the internal property line had always existed and was that way when Daisy purchased the property from the Noble Foundation.

Mr. Emerson stated under the old plan, the wastewater plant would have been on its own lot which would have supported the main Daisy plant which was on its own lot. Mr. Emerson questioned if that would have been permitted. Mr. Dutton stated yes, since it was an existing lot of record. Mr. Emerson stated that would have meant a supporting facility could have existed on a separate lot. Mr. Dutton stated it would have been even stranger to have a completely different use on the property since there was no access to a road. Mr. Barth stated the only way to get to that parcel was off of Daisy's drive. Mr. Fitz Gibbon stated the properties functioned as one piece of property. Mr. Emerson noted, however, that the property could be sold off as its own parcel. Mr. Emerson questioned if the entire Daisy property was within the City limits, even though it was located in Green Local School District. Mr. Dutton stated yes.

Mr. Emerson questioned if Staff had received any inquiries regarding the variance request. Mr. Dutton stated no.

Mr. Emerson opened the hearing for public comment.

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

Stewart Fitz Gibbon voted yes. Mr. Fitz Gibbon stated he felt the proposal was a logical use of the site. Mr. Fitz Gibbon stated Daisy had a fairly archaic, arbitrary boundary.

Ken Suchan voted yes. Mr. Suchan stated the problem was not created by the applicant. Mr. Suchan stated he felt it was a better solution for the wastewater facility and was in the public's interest.

Doug MacMillan voted yes citing reasons outlined by Mr. Fitz Gibbon. Mr. MacMillan noted that the two parcels existed for tax reasons and should not prohibit Daisy from moving forward.

Tate Emerson voted yes and indicated he felt there were special conditions with the situation which allowed the Board to approve the variance.

Motion carried by a 4-0 vote.

Appeal #2015-31. John Stride Jr. representing Leppo Rents requesting an area variance from Planning and Zoning Code Section 1171.04(c)(1) regarding the height of a freestanding sign at 480 West Henry Street in an M-2 (General Manufacturing) District.

John Stride, President of Leppo Incorporated, stated an area variance was being requested in order to erect an 18' freestanding sign, 12' from the ground to the bottom

of the sign with 6' of actual sign height. Mr. Stride stated the vast majority of their customers came from the west (Columbus Avenue) as well as off of US Route 30. Mr. Stride stated there was an issue with regard to visibility of their business which was behind/beside Clark Fowler Electric. Mr. Stride stated as customers approached the building on West Henry Street from the west, they had three opportunities to turn into the wrong place before they finally reached the customer entrance. Mr. Stride stated nearly all of their customers drove trucks of one kind or another, and many towed trailers with pieces of construction equipment on them. Mr. Stride stated if they turned into the wrong place, there was a potential that they would have to back out onto West Henry Street or would turn into their neighbor's (Clark Fowlers) parking lot which interfered with their operation. Mr. Stride stated by adding the sign at the height proposed, it would provide the visibility which they felt they needed and would reduce those types of occurrences.

Mr. Emerson questioned if they would be removing all of the other signs that they had on the property which were unpermitted. Mr. Stride stated yes, and noted that some of the signs had already been taken down.

Mr. Emerson stated he did not understand how the additional height would provide better visibility as it appeared to be "pretty open" and questioned why the additional 10' in height was necessary. Mr. Stride submitted pictures to the Board of how it appeared on Columbus Avenue. Mr. Stride stated the idea was that the sign height would be above the roofline of Clark Fowler.

Mr. Emerson stated in 2022, there would be a big push to make all non-conforming signs come into conformance with the Zoning Code regulations. Mr. Emerson stated Staff indicated that of the 294 freestanding signs in the City, 135 of the signs did not meet the current Sign Code regulations.

Mr. Emerson questioned if the sign was well below the allowable square footage which was permitted. Mr. Stride stated 48-sq. ft. was proposed, and he believed 70-sq. ft. was permitted. Mr. Suchan stated that even in the most intense commercial districts, the highest sign permitted was 15'. Mr. Suchan stated with new developments, monument-style signs were being erected and they marked the entrances very well. Mr. Stride stated there was an existing monument-style sign which marked the entrance they wanted customers to use, but because there were different entrances to the property, customers oftentimes did not use that entrance. Mr. Stride stated the sign was needed to direct people off of the highway, and the existing sign did not work very well because they had trucks turning into all the wrong places.

Mr. Suchan noted that the sign that existed currently was only 12-sq. ft., and they could erect a larger, monument-style sign to identify the entrance. Mr. Emerson stated he felt there were other ways to address the issue. Mr. MacMillan agreed and was unsure about whether deviating from the Code was the way to go. Mr. Stride stated the first entrance off of Henry Street was for Clark Fowler, the next one was for employee parking, and then there was a display area in front of the building, and then the driveway for customer entrance and exit.

Mr. Emerson questioned if they had any signage which faced US Route 30. Mr. Stride stated yes—on the side of the building which faced US Route 30.

Mr. Emerson stated he could not find a reason to support the variance. Mr. Fitz Gibbon stated he thought there would be alternatives for signing the different driveways to try and get the traffic to where they were trying to get it to go. Mr. Emerson suggested marking signage “main entrance”. Mr. Fitz Gibbon stated he was not sure a taller sign at that driveway would draw the traffic any better. Mr. Stride stated they were looking for a sign which clearly stood out from anything else that would send that message that “this is the place to go”. Mr. Emerson suggested erecting a 70-sq. ft. sign as that was allowable within the Code regulations.

Mr. Emerson questioned whether Staff had received any inquiries regarding the variance request. Mr. Dutton stated no.

Mr. Emerson opened the hearing to public comment.

Michael Perry, Leppo Wooster store, stated he had customers coming to the store daily expressing difficulty getting to the facility, even though there was signage designating “enter” and “employee parking”. Mr. Perry stated it was especially difficult for trucks/trailers who used the wrong entrance and then had to get back out onto Henry Street. Mr. Perry stated he felt the sign being “up and visible” would draw customers to the correct entrance.

Mr. MacMillan stated he understood the problem, but he was struggling why signage had to be “outside of the Code”. Mr. MacMillan stated a monument-style sign could help define the entrance and did not feel that the sign proposed would necessarily solve the problem. Mr. MacMillan also noted that any sign variance granted by the Board would have to be brought into compliance in 2022. Mr. Stride stated he understood that.

Mr. MacMillan stated Leppo really was not competing with its neighbors. Mr. Stride stated there was another rental business on the other side of Columbus Avenue, but felt their signage was grandfathered as the sign was high and visible from the highway (General Rental-All). Mr. Emerson stated they also had a sign on their building which faced the highway. Mr. Suchan stated with GPS systems, there were other ways to get to a business.

Mr. Emerson noted there was signage which read “Leppo Rents” on the west side of the property which could be seen over the Clark Fowler building. Mr. Fitz Gibbon stated he felt what was missing was more of a directional sign to say “go 50-70’ more” to the driveway; the existing small sign was likely not sufficient to catch the eye. Mr. Fitz Gibbon stated he felt a better monument sign at the driveway and a secondary sign to indicate “go 50’ more” would be a more reasonable solution and then they would not have to redo it in 7 years (2022).

Tate Emerson moved to approve the variance request as presented. Ken Suchan seconded the motion.

Ken Suchan voted no. Mr. Suchan stated he could not find the actual hardship that was created to allow signage of the height proposed.

Doug MacMillan voted no. Mr. MacMillan stated he felt it was overextending and felt that there were options closer to meeting the requirements.

Stewart Fitz Gibbon voted no. Mr. Fitz Gibbon stated he was sympathetic to the issue, but felt there was a more feasible solution. Mr. Fitz Gibbon further stated he did not think what was proposed would actually solve the problem.

Tate Emerson agreed with Mr. Fitz Gibbon. Mr. Emerson stated he did not feel the increased height would solve the problem, especially because there was an existing sign on the building which could be seen which was over the Clark Fowler building.

Motion failed by a 0-4 vote.

Meeting adjourned at 7:15 p.m.

Tate Emerson, Chairman

Laurie Hart, Administrative Assistant