

## MINUTES

### CITY OF WOOSTER BOARD OF BUILDING & ZONING APPEALS

May 6, 2021

#### I. MEETING CALLED TO ORDER AND ROLL CALL

Stewart Fitz Gibbon, Chairman of the Board of Building and Zoning Appeals, called the meeting to order. Board members Stewart Fitz Gibbon, Ben Gunn, Doug MacMillan, Gregg McIlvaine, Mark Reynolds, and Ken Suchan were present. Andrew Dutton, Planning and Zoning Manager, was present representing the City of Wooster.

#### II. APPROVAL OF MINUTES

Ken Suchan made a motion to approve the April 1, 2021, regular meeting minutes. Ben Gunn seconded the motion. The motion passed unanimously 6-0.

#### III. PUBLIC HEARINGS

##### Application #BZA-21-07.

Jeffrey Vitallo requested an Area Variance from Planning and Zoning Code Section 1125.03(h)(3) to allow a driveway without a hard surface at 3207 Shelly Blvd. in an R-2 (Single-Family Residential) zoning district.

Jay Vitallo, 3207 Shelly Blvd, stated that the driveway was 275 feet long. He stated that a concrete sidewalk would be installed along the property's frontage and a concrete drive apron would be constructed from the road to the driveway. Mr. Vitallo explained that the rest of the drive would be limestone. He continued the house was placed in the subject location due to a storm sewer. Mr. Vitallo explained that the drive would be a hard surface within three to five years.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. Hearing no comments, Mr. Fitz Gibbon closed the public hearing.

Gregg McIlvaine made a motion to approve application BZA-21-07, as presented with the condition that the driveway shall be a hard surface within five years. Ken Suchan seconded the motion.

Gregg McIlvaine voted yes and stated that there were unique circumstances that made it difficult to initially install a hard surfaced driveway.

Ken Suchan voted yes and stated that five years was a reasonable time to put in the hard surface on the 275 feet driveway. He noted that no one else on the street had a sidewalk.

Doug MacMillan voted yes and stated that the five years cover his concerns.

Ben Gunn voted yes and stated that five years to install a hard surfaced drive was appropriate.

Mark Reynolds voted yes for reasons cited by the Board and pointed out special conditions, including the presence of the storm sewer.

Stewart Fitz Gibbon voted yes for reasons cited by the Board and stated that the lot had special circumstances due to the utility running through it.

Andrew Dutton noted he received an email from Eugene Howell, 655 Tori Circle, with no objection to the application.

The motion passed unanimously, 6-0.

***Application #BZA-21-10.***

J. Douglas Drushal requested an Area Variance from Planning and Zoning Code Section 1113.01(e)(13)(D.) regarding the amount of outdoor storage permitted, Sections 1113.01(e)(13)(F.) and 1125.03(h)(3) regarding the use of gravel for outdoor storage, parking, and drives, and Section 1123.05(b) regarding interior parking lot landscaping at 1109 Pittsburgh Avenue in an I-1 (Office/Limited Industrial) zoning district.

Douglas Drushal, 225 North Market Street, stated that the request was for an exterior gravel outdoor storage area. Mr. Drushal explained that the company made large items, such as dumpsters, and needed a place to store them before shipping. Mr. Drushal continued that the area was planned for possible future expansion. He explained that the site was not visible from East Henry Street due to elevation changes and existing vegetation.

Mr. Drushal stated that the variance from providing interior landscaping was requested as the area would only be utilized for parking from time to time. Mr. Drushal explained that the site was behind the main building and was not visible from Pittsburgh Avenue. He continued that the outdoor storage area was only a space to place items before they were moved. Mr. Drushal explained that there were several special conditions due to the lay of the property and noted that there would be no impact on the character of the neighborhood.

Gregg McIlvaine asked if there were any plans to expand and clear the property. Jason Miller, 1109 Pittsburgh Avenue, stated that there was a steep bank and mature trees and additional trees would not be cleared.

Andrew Dutton clarified that the code did not allow gravel as it may create dust, was not aesthetically appropriate, and still created run-off.

Mr. Miller stated that the building could expand to the west, which would result in the removal of the parking area.

Mr. Dutton stated that land to the west was zoned R-T (Residential Traditional). He noted a wooded area and a small creek were located between the site and the R-T area.

Mr. Miller explained that the trucks would loop through in and out of the property on the existing pavement.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. Hearing no comments, Mr. Fitz Gibbon closed the public hearing.

Doug MacMillan made a motion to approve application BZA-21-10, as presented, with the condition that the applicant keep the tree line to the south and if any trees are taken down, they must be replaced with an evergreen buffer. Mark Reynolds seconded the motion.

Doug MacMillan voted yes and stated that the lot was very well hidden from Henry Street with the trees and topography.

Mark Reynolds voted yes and stated that the wooded area surrounding the property addressed many of the issues. He noted the character of the neighborhood wouldn't change.

Ben Gunn voted yes and stated that the character of the neighborhood would not change and noted the wooded barrier.

Gregg McIlvaine voted yes for the reasons cited by the Board.

Ken Suchan voted yes for the reasons cited by the Board and stated that he believed that it met variance criteria.

Stewart Fitz Gibbon voted yes for reasons cited by the Board and stated that it was a unique situation and noted the property was well hidden.

The motion passed unanimously, 6-0.

***Application #BZA-21-11.***

Matthew Knight requested a Use Variance from Planning and Zoning Code Section 1109.02(d) to allow a detached single-family dwelling and an Area Variance from Section 1115.04(a) to allow a building within the front yard setback at 4029 Cleveland Road in a C-3 (General Commercial) zoning district.

Matthew and Christina Knight, 4029 Cleveland Road, stated that they wanted to build a single-family dwelling southwest of their existing home. Mr. Knight explained that the lot was in a commercial area and there was a fairly steep hill in the rear portion. He stated that putting the house in the proposed location was the most financially logical place. Mr. Knight stated that the right-of-way was very wide on Cleveland Road.

Stewart Fitz Gibbon asked whether the City allowed two driveways onto Cleveland Road. Mrs. Knight stated that they were open to routing the driveway around the house to connect to their existing driveway.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. Hearing no comments, Mr. Fitz Gibbon closed the public hearing.

Gregg McIlvaine made a motion to approve application BZA-21-11, as presented. Ben Gunn seconded the motion.

Gregg McIlvaine voted yes and noted that he was concerned about the home's proximity to the right-of-way and the possibility of future problems for the applicants.

Ben Gunn voted yes and stated that he recommended the applicants move the house back as far as possible without incurring a lot of costs.

Doug MacMillan voted yes for reasons cited by the Board.

Ken Suchan voted no. He stated that the house was a nonconforming use and the code encouraged the commercial use of the property.

Mark Reynolds voted yes and stated that there was a unique situation with a floodplain behind the current house. He noted that he also recommended the house located as far back as possible.

Stewart Fitz Gibbon voted yes and stated that he agreed that the proposal would not normally be permitted anywhere else in the City. He noted there was a special circumstance because the property contained a residential use in a commercial district.

The motion passed, 5-1.

***Application #BZA-21-12.***

Nick Brenner requested an Area Variance from Planning and Zoning Code Section 1113.01(d)(3) to allow an accessory building in the front yard, Section 1113.01(e)(8)(D.) (ii.) and (H.) (iii.) regarding fencing color and height, Section 1113.01(e)(13)(D.) to allow more outdoor storage than permitted, Section 1117.03(d)(1)(A.) to allow non full cut-off light fixtures, Section 1119.05 to allow an accessory structure to deviate from architectural standards, Section 1123.05(b)(6)(C.) to allow parking aisles longer than permitted without a landscaped island, Section 1125.04(b) to provide less off-street parking than required, and Section 1125.03(b)(5) to allow reduced parking setbacks for the property on the east side of Burbank Road with parcel number 67-02990.000 in a C-3 (General Commercial) District.

Tom O'Neil, 5101 Menard Drive, Eau Claire, Wisconsin, stated that the lumber yard and warehousing area would typically sit behind the store, however, a 100 foot wide electrical easement was located at the rear of the property. Mr. O'Neil explained that there was a lot of grade change from north to south on the property, which affected the site plan and resulted in many of the requested variances.

Mr. O'Neil stated that the request to allow the accessory building in the front yard was directly due to the electrical easement. He continued that the fence height variance was for the storage of materials within the lumber yard. Mr. O'Neil explained that the outdoor storage area variance was to provide a constant merchandising plan. Mr. O'Neil continued that the variance for light fixtures, which were not full cut-off, only applied to a few decorative lights along the front of the garden center. Mr. O'Neil stated that all other fixtures in the parking lot and the lumber yard would be full cut-off.

Mr. O'Neil explained that the variances for parking would allow for aisles longer than permitted without a landscape island and a reduced amount of parking. Mr. O'Neil stated that the code required several hundred more parking spaces than were needed. He explained that the accessory structure deviated from the architectural standards due to the materials needed to construct the building. Mr. O'Neil continued that there were special conditions and circumstances that existed that support the granting of the variances.

Andrew Dutton stated that the Planning Commission approved the Final Development Plan with the condition that the variances were approved. He noted that both the Final Development Plan and Variance applications were requested to be valid for two years before receiving Zoning Certificate approval.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. Hearing no comments, Mr. Fitz Gibbon closed the public hearing.

Ben Gunn made a motion to approve application BZA-21-12 as presented with the approval being valid for two years before receiving Zoning Certificate approval. Mark Reynolds seconded the motion.

Ben Gunn voted yes and stated that the variances were necessary in order to make use of the land for the proposed project. He noted that the power lines running through the back of the property affected the site's configuration. He continued that the parking was maximized on the site in order for Menards to get the amount of parking to fit their needs.

Mark Reynolds voted yes and stated that the power lines and site topography created unique situations. He also stated that the fence request was minor and noted that the parking spaces did not set a precedent as the use was not a typical retail store.

Doug MacMillan voted yes for reasons cited by the Board.

Gregg McIlvaine voted yes and stated that the variances were not unreasonable and there were similar approvals at other properties. He also noted that he believed Menards would create a quality site that would be well done and improve the community.

Ken Suchan voted yes and stated that the applicant had sufficiently explained the reasons and the reasonableness of the variances.

Stewart Fitz Gibbon voted yes and stated that the requests abided by the process and review the Board is expected to follow. He commended the representative from Menards for a very thorough walkthrough of the justifications for each variance. He noted that the approval would not set a precedent because of the utility easement and the fact that the proposal needed for the project to be economically viable.

The motion passed unanimously, 6-0.

***Application #BZA-21-13.***

Robert Papotto requested an Area Variance from Planning and Zoning Code Section 1113.01(d)(3) to allow an accessory building in the front yard, Section 1117.03(d)(7) to allow an increased lighting height, Section 1123.05(b)(6) to allow parking aisles longer than permitted without a landscaped island, Section 1127.10(c)(8)(C.)(vi., vii., and viii.) to allow internally illuminated projecting signs larger and taller than permitted, and Section 1127.10(d)(2) and (d)(3)(B.) to allow freestanding signs taller and larger than permitted for the property on the north side of West Smithville Western Road and east side of Burbank Road with parcel number 67-02990.000 in a C-3 (General Commercial) District.

Chris Jones, 2353 Mile Road, NW, Grand Rapids, MI, stated that Menards, Redstone, and Meijer composed the entire development. Mr. Jones explained there would be a lot of grading, off-site improvements, and utility extensions to develop this property.

Brian Smallwood, 1203 Walnut Street, Cincinnati, stated that the accessory structure in the front yard was a horse shelter for the Amish in the community. Mr. Smallwood explained that the request to allow an increased lighting height of 33 ft. would result in fewer light poles in the parking lot. He continued that the lights would be downward shielded LEDs which were energy efficient.

Mr. Smallwood stated that the request for longer parking isles without landscaping was necessary to meet the minimum parking requirements. He continued that the landscape islands provided were in the spirit of the Zoning Code and fewer islands facilitated snow plowing.

Mr. Smallwood stated that the projecting signs were requested to be internally illuminated and mounted higher than permitted. He stated that the projecting signs directed customers to the end of the store where those services were provided. Mr. Smallwood explained that the variances to sign height and area applied to Meijer, Menards, and the outlots. Mr. Jones stated that a portion of the sign height accommodated decorative features, which made for more attractive signs.

Mr. Dutton stated that the Planning Commission approved the Final Development Plan with the condition that the variances were approved. He noted that both the Final Development Plan and Variance applications were requested to be valid for two years before receiving Zoning Certificate approval.

Gregg McIlvaine asked why the additional sign height was needed. Mr. Jones stated that the intent was to minimize the number of signs by having them as shopping center signs. Mr. Jones explained that the signs could be reduced in height by removing the decorative feature.

Mr. Suchan asked what sign heights were on the rest of Burbank Road and noted that previous code requirements limited sign height to 20 feet. Mr. Dutton stated that the current requirement was a maximum height of 15 feet and he was unsure of existing sign heights.

Mr. Suchan stated that he felt that 20 feet was as high as could be approved without setting a precedent. Mr. Fitz Gibbon asked if the applicant would comply with a 20 foot sign height in order to keep that corridor consistent. Mr. Jones stated that the maximum sign height of 20 feet could be met.

Mr. Dutton stated that sign area was calculated by each lot's frontage and there was a bonus for wide lots. Mr. Dutton explained that if the site was taken as one lot, the maximum area requirement would be met.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. Hearing no comments, Mr. Fitz Gibbon closed the public hearing.

Gregg McIlvaine made a motion to approve application BZA-21-13 as presented with the approval being valid for two years before receiving Zoning Certificate approval and the conditions that the sign height shall be limited to 20 feet and requested item #6 in the project narrative shall not be part of the approval.

Ken Suchan seconded the motion.

Gregg McIlvaine voted yes and stated that each individual variance was reasonable. He noted that he was curious if the 33 foot lighting height would be beneficial.

Ken Suchan voted yes and stated that the requests were reasonable.

Doug MacMillan voted yes for reasons cited by the Board.

Ben Gunn voted yes for reasons cited by the Board.

Mark Reynolds voted yes and stated that the 20 foot sign height was reasonable. He continued that, in the past, some lighting issues had been due to lights which were not full cut-off. Mr. Reynolds continued that he did not believe lighting would be an issue to the neighbors.

Stewart Fitz Gibbon voted yes and stated he appreciated the willingness of Meijer to work with the Board on the sign height, which had been a long running issue. He stated that he appreciated the investment in the community and felt that the requests were reasonable.

The motion passed unanimously, 6-0.

***Application #BZA-21-14.***

Roger Kobilarcsik requesting an Area Variance from Planning and Zoning Code Section 1123.05(b)(6) regarding interior parking lot landscaping at 668 Venture Blvd. with parcel number 68-00379.008 in an I-2 (General Industrial) District.

Andrew Dutton, 538 North Market Street, stated that the park property contained wetlands and was predominately wooded. Mr. Dutton continued that the original plan was revised, moving the parking area and structures to the south side of the site. Mr. Dutton stated that the park would consist of walking trails, parking, pavilion, and restrooms. Mr. Dutton explained that the parking area had less interior landscaping and trees and a longer parking aisle length than required. Mr. Dutton stated that the site was surrounded by woodlands and wetlands and the idea was to keep the parking area as compact as possible. Mr. Dutton continued that the intent was to have as little impact on the natural areas as possible.

Stewart Fitz Gibbon stated that it seemed to be a very reasonable argument to not disturb more of a park to add more landscaping in a parking lot.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. Hearing no comments, Mr. Fitz Gibbon closed the public hearing.

Ken Suchan made a motion to approve application BZA-21-14 as presented. Gregg McIlvaine seconded the motion.

Ken Suchan voted yes and stated that it was a reasonable request.

Gregg McIlvaine voted yes for reasons cited by the Board and noted that park area would be preserved.

Mark Reynolds voted yes for reasons cited by the Board.

Ben Gunn voted yes for reasons cited by the Board.

Doug MacMillan voted yes and stated that the less impact on natural areas was always good.

Stewart Fitz Gibbon voted yes for reasons cited by the Board.

The motion passed unanimously, 6-0.

**IV. ADJOURNMENT**

Ben Gunn made a motion to adjourn. Doug MacMillan seconded the motion. The motion passed unanimously, 6-0.

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**Stewart Fitz Gibbon, Board of Building and Zoning Appeals Chairman**

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**Carla Jessie, Administrative Assistant**