

## MINUTES

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

June 3, 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 May 6, 2021, regular meeting minutes. Gregg McIlvaine seconded the motion. The motion passed unanimously 6-0.

#### III. PUBLIC HEARINGS

##### ***Application #BZA-21-08.***

Michelle Miller requested an Area Variance from Planning and Zoning Code Section 1113.01(e)(22)(A.)(i. and ii.) to allow a ground mounted solar energy system taller than permitted and within the front yard at 444 West Milltown Road in a C-1 (Office/Institutional) zoning district.

John Picard, 50 North Avenue NW, Massillon, stated that the provided site plan showed the location of the solar panels on the corner lot. Mr. Picard continued that the proposal was to allow the panels to be placed in the front yard and corner side yard. Mr. Picard stated that the solar panel setbacks would be 35 ft. 4 in. off the Milltown Road right-of-way and 15 ft. off the Commerce Parkway right-of-way. He indicated that a chain-link slatted fence would wrap around the panels. Mr. Picard explained that the request was to allow a height of 8 ft. 6 in. and the permitted height was 8 ft. Mr. Picard continued that the required landscape and screening was proposed on both streets.

Andy Hostetler, Paradise Energy Solutions, 525 Belden Circle NE, Sugarcreek, stated that he was the product manager. Mr. Hostetler explained that all available roof space would be full of solar panels and the panels would cover 94% of their energy usage. Mr. Hostetler stated that 8 ft. 6 in. was the standard sizing for the manufacture.

Gregg McIlvaine asked if the array had to be 2 ft. off the ground. Mr. Hostetler stated that the tilt arms of the array could not go any lower. Mr. McIlvaine stated that the panels would be very visible. Mr. Hostetler explained that screening would be provided utilizing fencing with white slats and landscaping.

Mr. Picard noted that the 6 ft. high fence and the elevation of the road, which was slightly lower than the property, would make the panels very difficult to see. Mr. Picard continued that there was a substantial amount of landscaping proposed as well.

Andrew Dutton stated that the 8 ft. solar panel height limit was placed in the code in an update in 2018. Mr. Dutton explained that the 8-foot limit may have been the standard at the time, though the technology and standard height appear have changed.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. Mr. Fitz Gibbon closed the public hearing.

Gregg McIlvaine moved to adjourn to Executive Session. Ken Suchan seconded the motion. The motion passes unanimously, 6-0.

Gregg McIlvaine moved to come out of Executive Session. Ken Suchan seconded the motion. The motion passed unanimously, 6-0.

Mark Reynolds made a motion to approve application BZA-21-08, as presented. Ken Suchan seconded the motion.

Mark Reynolds voted yes and stated that the uniqueness of the large corner lot and the minimal height increase was the minimum necessary to make the project feasible. He stated that the property had larger setbacks than many other lots in the area and noted that the proposed screening would limit visibility from the road.

Ken Suchan voted yes for the reasons cited by the Board and stated that the applicant had made a good faith effort to screen the solar panels and match existing fencing.

Doug MacMillan voted yes for reasons cited by the Board and stated that the height would vary during the day. He stated that the landscaping and fencing were appealing.

Gregg McIlvaine voted no and stated that though he was glad to see the use of solar panels, he did not believe the project's size fit into the area. He added that he was concerned about setting a precedent.

Ben Gunn voted yes and stated that the large size of the corner lot played a role in his consideration. He stated that the amount of landscaping would provide screening over time.

Stewart Fitz Gibbon voted yes and stated that the application was the first case regarding a major solar panel installation in the City. He noted there were unique circumstances, as cited by the Board.

The motion passed, 5-1.

***Application #BZA-21-15.***

Tammy Harper requested an Area Variance from Planning and Zoning Code Section 1113.01(e)(8)(G)(i. and ii.) to allow a fence taller than permitted and without openness in a corner side yard at 409 Saybolt Avenue in an R-T (Traditional Residential) zoning district.

Tammy Harper, 409 Saybolt Avenue, stated that she wanted to replace an existing wooden fence that was starting to fall apart. Ms. Harper explained that the fence had been there for over 10 years and the height had never been a problem with neighbors. Ms. Harper continued that she had dogs and had concerns about going lower than the 6 ft. Ms. Harper stated that the vinyl fence would look nicer and would last longer.

Mr. Dutton stated that the fence did not receive a variance. He noted that, at the time, the code allowed the fence and it was permitted. Mr. Dutton stated that the current code required that the section of the fence between the house and Park Drive must be 4 ft. tall and 50% open.

Ms. Harper stated that the area on Park Drive did get traffic from the football field.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. No one from the public was present to comment on the application and Mr. Fitz Gibbon closed the public hearing.

Ben Gunn made a motion to approve application BZA-21-15, as presented. Gregg McIlvaine seconded the motion.

Ben Gunn voted yes and noted that the application was to replace an existing fence that was already in place. He noted that the proposal would not change the essential character of the neighborhood and would add value.

Gregg McIlvaine voted yes for reasons cited by the Board and stated that no neighbors objected to the fence.

Mark Reynolds voted yes and stated that the property was a corner lot and the fence was a substantial distance from the intersection. He continued that the fence would not create any visibility issues.

Ken Suchan voted yes for reasons cited by the Board.

Doug MacMillan voted yes and stated that Park Drive was a quiet dead-end street that was occasionally used for Pee Wee Football.

Stewart Fitz Gibbon voted yes for reasons cited by the Board and stated that his only concern was the presence of a solid fence, which could inhibit visibility. He continued that there were a unique set of circumstances given that the fence already existed and the limited traffic on Park Drive.

The motion passed unanimously, 6-0.

***Application #BZA-21-16.***

Matthew Long requested an Area Variance from Planning and Zoning Code Section 1115.04(a) to allow a building to exceed the maximum setback, Section 1123.04(b) to allow fewer street trees than required, Section 1123.05(a)(2) and (b)(6) to allow less site landscaping than required, and Section 1125.03(b)(5) to allow parking within the required side and rear setbacks at a property located on the south side of East Liberty Street with parcel number 64-01544.001 in a C-4 (Central Business) zoning district.

Matthew Long, 225 North Market Street, explained that the proposal was for a downtown development project on East Liberty Street. Mr. Long explained that the commercial tenant was a Mike Mariola restaurant on the first floor of the two-story building. He stated that the first floor would be a 7,500 sq. ft. restaurant with a 3,000 sq. ft. outdoor patio. Mr. Long explained that the second floor would be eight apartments with six one-bedroom and two two-bedroom units. Mr. Long continued that the project complied with as much of the code as possible, but required variances that helped the project fit the site.

Mr. Long explained that the building was located on the site the average of the two adjacent buildings. He continued that the parking lot included 20 rear spaces and 3 side spaces. Mr. Long stated that there was safe pedestrian access coming from the parking lots along South Street. Mr. Long continued that planters would be used for landscaping in front of the building.

Mike Mariola, 570 North Market Street, stated that the restaurant was needed in the community and would provide a casual dining option with seating for 200 people. Mr. Mariola explained that the restaurant would have options for pickup and delivery. Mr. Mariola continued that the restaurant would fit into the strategic plan for the downtown area.

Stewart Fitz Gibbon asked is there was sufficient parking along South Street to accommodate all three businesses. Mr. Long stated that the area was part of the parking exemption district, so on-site parking was not required. Mr. Long explained that the City had conducted a parking analysis and found there was sufficient parking in the East Liberty Street neighborhood. Mr. Long noted that there was a new city parking lot immediately behind the project.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. No one from the public was present to comment on the application and Mr. Fitz Gibbon closed the public hearing.

Gregg McIlvaine made a motion to approve application BZA-21-16, as presented. Ken Suchan seconded the motion.

Gregg McIlvaine voted yes and stated that it was a great project. He noted it was always difficult to fit everything into a downtown property without needing variances. Mr. McIlvaine continued that he did not feel anything requested was usual or unreasonable.

Ken Suchan voted yes and stated that the variances were the least to make the project work. He stated that the building setback was respectful of the buildings next door, and the outdoor seating front would greatly enhance the downtown.

Ben Gunn voted yes and stated that the variance requests were minimal and not highly impactful. He continued that the tone of the neighborhood would not change and the project would improve the East Liberty Street area.

Mark Reynolds voted yes and stated that the variance was the minimum necessary to complete the project. He noted that while there were several variances requested, none of them were individually impactful.

Doug MacMillan voted yes for reasons cited by the Board.

Stewart Fitz Gibbon voted yes and stated that the plan fit with the area and was a consistent and harmonious downtown development.

The motion passed unanimously, 6-0.

***Application #BZA-21-17.***

Robert Reynolds requested an Area Variance from Planning and Zoning Code Section 1117.02(f) to allow development within the riparian corridor setback at a property with Parcel Number 67-00948.000 located west of Lochwood Glen and east of Woodcrest Drive in a PD (Planned Development) zoning district.

Mark Reynolds recused himself from the application.

Robert Reynolds, 441 West Liberty Street, stated that the code prohibited development in a riparian corridor. Mr. Reynolds explained that the proposal was for a detention basin within a

riparian corridor. He continued that a detention basin had to go where the water goes, which was in the riparian waterway. He stated that the detention basin had been on plans which were approved by the Army Corps for over ten years. Mr. Reynolds stated that there had been a detention basin on the plans for Tartan Ridge Development from the beginning.

Mr. Reynolds explained that originally, the street was to connect to Woodcrest Drive. He continued that in the Fall, the subdivision received approval to cul-de-sac the road. Mr. Reynolds stated that the detention basin was still necessary.

Mr. Dutton stated that the riparian corridor was based on a calculation recently determined by the City's Engineering Division. Mr. Dutton explained that the basin would be built to all other applicable standards.

Lauren Mingay, 213 West Liberty Street, stated that the development was a private community. She explained that there was a very steep decline, so construction along the hillside would be almost impossible.

Mr. Fitz Gibbon asked if anyone from the public would like to address the Board regarding the application. No one from the public was present to comment on the application and Mr. Fitz Gibbon closed the public hearing.

Ben Gunn made a motion to approve application BZA-21-17 as presented. Gregg McIlvaine seconded the motion.

Ben Gunn voted yes and stated that the application was the minimum needed and the impact was relatively small.

Gregg McIlvaine voted yes and stated that the project was still subject to approval by the Army Corps of Engineers and the City Engineer.

Ken Suchan voted yes and stated that it appeared a larger area would be provided for water to be stored.

Doug MacMillan voted yes and stated that the basin must meet requirements to be completed.

Stewart Fitz Gibbon voted yes and stated that the application had a unique circumstance. He noted that with the Army Corps of Engineers and the City of Wooster Engineers reviewing the basing, the neighborhood would be assured that it would be done properly.

The motion passed unanimously, 5-0.

#### **IV. ADJOURNMENT**

Ken Suchan made a motion to adjourn. Gregg McIlvaine seconded the motion. The motion passed unanimously, 6-0.

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**Mark Reynolds, Board of Building and Zoning Appeals Vice-Chairman**

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**Carla Jessie, Administrative Assistant**