

## MINUTES

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

July 7, 2022

#### 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 Jason Anderson, Jeff Battig, Martha Bollinger, Stewart Fitz Gibbon, Ben Gunn, Mark Reynolds, and Ken Suchan. Vincent Marion, Planning and Zoning Manager, represented the City of Wooster.

#### II. APPROVAL OF MINUTES

Ken Suchan made a motion to approve the minutes of the May 5, 2022, meeting of the Board of Building and Zoning Appeals. Mark Reynolds seconded the motion. The motion carried unanimously 7-0.

#### III. APPLICATIONS

##### ***BZA-22-5.***

Josh Funderburk requested an Area Variance from Planning and Zoning Code Section 1115.04(a) regarding the maximum front yard setback, Section 1125.03(b)(5) regarding parking located behind the front building line, and Section 1125.03(b)(5) regarding parking setback from abutting lot lines at 310 South Market Street (Parcel numbers 64-01740.000, 64-01226.000, 64-01739.000, 64-01741.000 and 64-00149.000.

The applicant tabled the application.

##### ***BZA-22-8.***

James Worthington requested an Area Variance from Planning and Zoning Code Section 1109.03(6)(D) and 1125.03(h)(3) to allow a parking area for car sales and a driveway area without a hard surface at 3669 Cleveland Road in a C-3 (General Commercial) zoning district.

James Worthington, 796 East Easton Road, Creston, stated that they had to move the car dealership because of the previous property sale. Mr. Worthington explained that the property at 3669 Cleveland Road has been vacant for several years. Mr. Worthington continued that the property improvements included new gravel in the parking lot and cleaning up the property. Mr. Worthington stated that they wanted to sell cars on the property, and the parking lot was currently gravel. Mr. Worthington explained that other gravel parking areas in the area with commercial facilities have much more vehicular traffic. Mr. Worthington continued that there would be a maximum of 18 to 20 vehicles on the lot. Mr. Worthington said he leased the property and would maintain the parking area.

Mr. Marion stated that the application was a new use for the site, so any change would require compliance with the code. Mr. Marion explained that car sales were not permitted to be used in a C-3 zoning district and received conditional use approval from the Planning Commission two months ago to operate. Mr. Marion stated that all new developments require a hard surface. Mr. Marion explained that if there was gravel, it was probably preexisting the code requirement or annexed into the City that way, and unless there were a change in use or a new building, the condition would not kick in. Mr. Marion continued that there were multiple reasons why a hard surface was required for environmental aesthetics, designating parking, and controlling water runoff into a catch basin.

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.

Ben Gunn made a motion to approve application BZA-22-8 with the condition of a five-year plan to move to a hard surface. Ken Suchan seconded the motion.

Ben Gunn voted yes and stated with the condition that within years five years to work out a new agreement with the lease to install a hard surface. He explained that the gravel was acceptable with the improvements since the building had been vacant for a while.

Ken Suchan voted yes and stated that the situation had existed since 1961 without any harm, and the business size was small compared to the other dealerships in the neighborhood.

Mark Reynolds voted yes and stated that the lot had been gravel for several years with no harm or disservice to the neighboring properties. He explained that the length of time for one to budget for the hard surface gives the applicant a window to operate.

Jason Anderson voted yes.

Jeff Battig voted yes.

Martha Bollinger voted no and stated that based on the code's requirements and the other dealerships complying with the code, this could set precedence inside the City.

Stewart Fitz Gibbon voted yes and stated that the code exists to a certain sense of uniformity across the City; this is one of the few opportunities we have to improve the neighborhood. He explained that with the landlord's condition, the lot needs addressing in five years.

The motion passed, 6-1.

***BZA-22-9.***

Matthew Knight requested an Area Variance from Planning and Zoning Code Section 1113.01(e)8D to allow a fence using rolled wire/chicken wire at 4029 Cleveland Road in a C-3 (General Commercial) zoning district.

Mark Reynolds made a motion to table application BZA-22-9 until the August meeting. Ben Gunn seconded the motion.

The motion passed unanimously, 7-0.

***BZA-22-10.***

J. Douglas Drushal requested a Use Variance from Planning and Zoning Code Section 1109.02(d) to allow an expansion of a vehicle washing establishment and an area Variance from Planning and Zoning Code Section 1115.04(a) (Table 115-3, minimum front yard building setback) at 611 West Liberty Street in a C-2 (Community Commercial) zoning district.

Doug Drushal, 225 North Market Street, stated that the property was an existing legal use and the expansion of the building was about 11% of the increased footage. Mr. Drushal explained that there was no change in use; the existing building is a car wash, and the use would not change. Mr. Drushal continued that the new owner wanted to improve the car wash and the

automatic tunnels were more significant than the existing bays. Mr. Drushal stated that the tunnels require the building to be a little longer and will improve the area within the 50 percent limit. Mr. Drushal explained that the parcel was unique. The property comes to a triangle where Larwill and Liberty Streets come together. Mr. Durshal continued that it was hard to stay the required distance away from the property line.

Mr. Gunn noted that the new tunnel was approximately 10 feet from the road and asked how far would the car wash be from the sidewalk. Mr. Drushal stated there was no sidewalk; it was paved from the car wash to Larwill Street. Mr. Drushal explained that there were 15 to 20 feet from the property line. Mr. Marion stated that all setbacks were measured from the right of way, not the road.

Mr. Marion stated that the property was adjacent to a residential neighborhood. The application required review by the Planning Commission, which took place before this meeting and recommended approval based upon the granting of the variance.

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

Lyndon Treece, 520 West Larwill Street, stated that he owned the three properties next to the car wash. Mr. Treece explained that the owner received a variance to build the car wash and now wanted another variance to expand the car wash. Also, the drainage was not up to par and needed upgrading. Mr. Treece continued that the City cleaned the drains twice. Mr. Treece stated that the water backs up in one of the homes he owns due to the over usage and the rain in a low-lying area. Mr. Treece explained that the parking for the lot did not permit good snow removal and pushed over onto my yard. Mr. Treece continued that much debris came off the roof because it was not maintained. Mr. Treece stated that the neighbors conveyed their concerns to the owner. Mr. Treece explained that the car wash needed improvements.

Linda Fry, 520 West Larwill Street, stated that she picks up the garbage that blows west onto her property. Ms. Fry explained that she had previously worked for the car wash, cleaning, sweeping the lot, and picking up the litter. Ms. Fry continued that people drop off trash and overflow the garbage cans. Ms. Fry stated that the owner needed to hire someone to take care of the customers and keep the lot cleaned.

Mr. Drushal stated that the new owner wanted to update the facility and fix the property. Mr. Drushal explained that there were drains in the car wash hand bays where the water goes. Mr. Drushal continued that the detention basin on the property at the point of the triangle collects the water.

Mr. Fitz Gibbon closed the public hearing.

Mark Reynolds made a motion to approve application BZA-22-10 as presented. Jeff Battig seconded the motion.

Mark Reynolds voted yes and stated that the issue at hand was up to the Board on expanding the car wash. Mr. Reynolds explained that if the Board voted no on the application, the car wash could continue to operate as it was today with no changes. He understands that the current car wash has not been the best neighbor. Unfortunately, the Board was not the place to ensure that they were the best stewards of the neighborhood. Mr. Reynolds stated that hopefully, the new owners would take better care of the property. Mr. Reynolds explained that

the Board's decision was whether to allow an addition to the existing car wash. Mr. Reynolds stated that the property had no applicable economic use.

Jeff Battig voted yes and hoped the new owner would clean up the property.

Jason Anderson voted yes and stated that he hoped the new owner would clean up the property; this was a much better prospect.

Martha Bollinger voted yes and stated that Mr. Drushal should talk to the current owner and the potential new owner to see if the issues would be addressed to make the property a successful business and a good neighbor.

Ben Gunn voted yes for reasons cited by the Board.

Ken Suchan voted yes and stated that primarily because the issue was more with new technology for the building to grow with the times and the possibility of the property to be a better car wash with the latest equipment.

Stewart Fitz Gibbon voted yes and stated that he appreciated the neighbors making their concerns known.

The motion passed unanimously, 7-0.

***BZA-22-12.***

Timothy Hughes requested a Use Variance from Planning and Zoning Code Section 1131.05(h)(1.) (A) to allow for the continuance of discontinued nonconforming use of a mobile home at 1233 Eastern Avenue, parcel number 65-01784.000 in an R-T (Traditional Residential) zoning district.

Timothy Hughes, 145 Trinity Pond Road, Winterville, Georgia, stated that he owned five mobile homes and a single-family home on Eastern Avenue, all fully rented. Mr. Hughes explained that unit 1233 was destroyed by the last tenant; she was evicted in 2021. Mr. Hughes stated that he got quotes on rehabbing the facility, and the lack of employees prevented the contractors from beginning the project. Mr. Hughes explained that the mobile home at that time was boarded up so that no one could continue to break in. Mr. Hughes continued that he hired another contractor in April 2022 to go in and rehab the building and the City of Wooster stopped the job. Mr. Hughes stated that he was notified that the building had been vacant for longer than a year. Mr. Hughes explained that most of the units were for Metropolitan Housing. Mr. Hughes continued that the proposal was to continue rehabbing and making this a good home for someone to rent. Mr. Hughes stated that the rehab took approximately six weeks to finish. Mr. Hughes explained that his son managed the rentals.

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.

Mr. Marion stated that the purpose of the language in the code is to bring the use into conformance. Mr. Marion explained that the R-T zoning district was heavily debated and discussed during the last comprehensive plan study a couple of years ago. Mr. Marion continued that there was a conclusion in the comprehensive plan study to restore the R-T district to traditional residential housing.

Martha Bollinger made a motion to approve application BZA-22-12 as presented. Jason Anderson seconded the motion.

Martha Bollinger voted yes and stated the motion to approve the variance requested was due to the hardship of Covid and the contractor allowing the residence to rent and use.

Jason Anderson voted yes.

Jeff Battig voted yes.

Ben Gunn voted yes and stated that covid and other extending circumstance has come up outside the owner's control. He explained that the circumstances were unique within the R-T district.

Mark Reynolds voted yes and stated that the applicant's actions did not create the hardship condition.

Ken Suchan voted yes and stated that the application request primarily defined a hardship.

Stewart Fitz Gibbon voted yes for the reasons cited by the Board. He noted that the R-T's challenge was that there was any other economically viable use for the property.

The motion passed unanimously, 7-0.

***BZA-22-13.***

J. Douglas Drushal requested an Area Variance from Planning and Zoning Code Section 1113.01(e)(8)(D)(iv.) to allow a fence with barbed wire less than the required height of 8 feet at 2708 Akron Road, parcel 67-02436.000 in an I-1 (Office/Limited Industrial) zoning district.

Doug Drushal, 225 North Market Street, stated that the property sits pretty far off Akron Road, and there were many break-ins with the police being called. Mr. Drushal explained that the chain link fence has a gate with an automatic opening with a code to enter. Mr. Drushal continued that the barbed wire on the top of the fence was to keep people from entering. Mr. Drushal stated that barbed wire could not be on the top of a 6-foot fence, only an 8-foot fence. Mr. Drushal explained that the property was not adjacent to any residential property, there was no walkway, and no one should be there. Mr. Drushal continued that the fence secures the storage units on the property.

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

Keith Erikson, 3485 Cross Creek Circle, stated that he owned properties 2728 and 2730 Akron Road. Mr. Erikson noted that the application was a classic example of asking for forgiveness or permission in the first place, and had the permit been filed as it should have been, this might have been resolved from the beginning. Mr. Erikson explained that conditions had to be met when he served on the Board. Among them was whether anyone else in the immediate area of the property was enjoying this appeal, and there was no evidence. Mr. Erikson continued that another criterion was an action requiring a hardship, significant difficulty, or expense. Mr. Erikson stated that the property is built up in the back for the retention basin because he put in the retention basin for the warehouse that he just built. Mr. Erikson explained that approving

the application could set a precedent, and not meeting the undue hardship could also set a precedent.

Mr. Fitz Gibbon closed the public hearing.

Martha Bollinger motioned to approve the application BZA-22-13 as presented with the condition that the applicant must comply with applicable fire code regulations. Ben Gunn seconded the motion.

Martha Bollinger voted no and stated that not applying for the permit and not taking responsibility to make sure the applicant complied with the code. The owner and contractor have not worked out an agreement to see how to remedy the installation of the eight-foot fence. She also feels the hardship criteria have not been met.

Ben Gunn voted no and stated that the owner contracted the company to install the fence and did not ensure a permit to meet all requirements.

Mark Reynolds voted no and stated that no special conditions or circumstances were peculiar to the land or structure, and the property did not have any uniqueness.

Ken Suchan voted yes and stated that the spirit and intent behind the zoning requirement would be observed by granting the variance, and he didn't see any difference between a 6 or 8-foot fence.

Jason Anderson voted no for a reason cited by the Board.

Jeff Battig voted yes for the reason cited by the Board and noted that mistakes were made.

Stewart Fitz Gibbon voted no for reasons cited by the Board.

The motion was denied 2-5.

#### **IV. ADJOURNMENT**

Ben Gunn made a motion to adjourn. Mark Reynolds seconded the motion. The motion passed unanimously, 7-0.

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

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**Carla Jessie, Administrative Assistant**