

MINUTES

CITY OF WOOSTER BOARD OF BUILDING & ZONING APPEALS

July 6, 2023

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, and Mark Reynolds were present at the meeting. Vincent Marion, Planning and Zoning Manager represented the City of Wooster.

II. APPROVAL OF MINUTES

Mark Reynolds made a motion to approve the minutes of the May 4, 2023, meeting of the Board of Building and Zoning Appeals. Martha Bollinger seconded the motion. The motion carried unanimously 6-0.

III. APPLICATIONS

BZA-23-6.

Eric Long requested an Area Variance from Planning and Zoning Code Section 1113.01(e)(8)(D)(ii) to allow a fence with multi-colors at 2330 East Smithville Western Road, parcel number 71-00481.000 in an R-1 (Suburban Single-Family) zoning district.

Eric and Erin Long, 2330 East Smithville Western Road, stated that Lowes installed a fence, and the privacy fence is tan and attached to a black vinyl-covered chain link fence surrounding the property. Mr. Long explained that the privacy fence was not manufactured in the same color as the chain link fence. Mr. Long continued that in August of 2022, they agreed to paint the new vinyl fence to match the chain-link fence, but after doing some more research, they talked to local contractors and advised not to paint the fence because it would damage the fence. Mr. Long stated there was no guarantee that the paint would stick to the fence.

Ms. Long said they submitted the articles and a letter from the neighbor approving the fence colors. Ms. Long noted that the fence blocks the neighbor's backyard. Ms. Long stated that the sun's intensity could warp the vinyl if they painted the fence black on a hot day.

Mr. Marion stated that the applicant came before the Board of Zoning and Planning Appeals last year and requested a multi-colored fence; during that hearing, they agreed to paint it black. Mr. Marion explained that after the fence had been installed, they had decided, based on their research, to keep it the original color.

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

Lisa Chittenden, 4826 Melrose Drive Ext, stated that she received a letter concerning the fence meeting and thought that meant all different crazy colors.

Mr. Fitz Gibbon closed the public hearing.

Jason Anderson made a motion to approve applications BZA-23-6 as presented. Mark Reynolds seconded the motion.

Jason Anderson voted yes and stated that the application meets the criteria.

Mark Reynolds voted yes and stated that special conditions exist, and the second parcel with the outbuilding east of the property wanted to see the building from their home and the unique nature of the property with the L shape.

Ben Gunn voted yes for reasons cited by the Board.

Martha Bollinger voted yes and said she thought the fence was attractive.

Jeff Battig voted yes for reasons cited by the Board.

Stewart Fitz Gibbon voted yes for reasons cited by the Board and noted that the neighborhood has different types and styles of fencing and the need to see the garage in the back of the property.

The motion passed unanimously, 6-0.

BZA-23-7.

Chris Artman requested two Area Variances from Planning and Zoning Code Section 1115.04(c) exceeding the maximum front yard setback and 1125.03(b)(5) parking in front of building line on property located on the southeast corner of Beall Avenue and E. North Street with parcel numbers 64-01473.000, 64-01471.000 and 64-01036.000 (517/519 E. North) in the C-4 (Central Business) zoning district.

Chris Artman, 13710 Cleveland Avenue NW, Uniontown, stated the proposal for a 2,300 sq. ft. Chipotle Restaurant on the corner of North Street and Beall Avenue. Mr. Artman explained that two variances were needed to exceed the maximum front yard setback by ten feet and exceed that and place parking in the front of the building. Mr. Artman continued the 17-foot elevation drop from the corner to the entrance drive and wanted to utilize the existing entrance drive on the site and move the building more, blocking off the access road in the back. Mr. Artman stated that a retaining wall around the back of the building at the back of the site. Mr. Artman noted that the retaining wall would be 5 to 6 feet tall. Mr. Artman explained that the restaurant would have an interior and some exterior patio dining in the front of the building with a digital pick-up window for pick-up only.

Mr. Marion stated that because this is in a C-4 zoning district, the Design and Review Board also has review authority. The Board approved the site plan as well as the elevations at an earlier meeting. Mr. Marion explained that the Planning Commission conditionally approved the preliminary site plan upon receiving the two variances.

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

Paul Fryman, 120 Beall Avenue, stated that he owned the business across the street from the property and wondered about the property. Mr. Fryman noted that he thought the offset from the road was essential and favored the restaurant's approval.

Mr. Fitz Gibbon closed the public hearing.

Mark Reynolds made a motion to approve applications BZA-23-7 as presented. Ben Gunn seconded the motion.

Mark Reynolds voted yes and stated that the application meets all criteria. The steep elevation changes and using the existing curb cuts make much sense putting the building toward the front even with the elevation change and a lot more traffic in the back of the building. He said he thought this was the best solution for the property.

Ben Gunn voted yes and stated that the application meets all of the criteria, does not change the neighborhood's character, and has no other option without getting a variance. He said they are trying to stay within the code as much as possible.

Jason Anderson voted yes for reasons cited by the Board.

Jeff Battig voted yes and stated that the application meets all of the criteria of the code.

Martha Bollinger voted yes and stated that the application meets all of the criteria of the code.

Stewart Fitz Gibbon voted yes for the reason cited by the Board, and the application was a creative land use.

The motion passed unanimously, 6-0.

BZA-23-8.

Tammy Hunter requested an Area Variance from Planning and Zoning Code Section 1115.04(a) to allow a building within the required setback, Section 1123.06(b) and (c) to eliminate the buffer requirement adjacent to a residential district, and Section 1125.03(b) (5) to allow parking within the required side and rear setbacks at a property located on the north side of West Old Lincoln Way with parcel number 68-02034.000 in an I-2 (General Industrial) zoning district.

David W. Zacour, Taggart Law Firm, 140 West Liberty Street, stated that the application proposes constructing a 5,760 sq. ft. storage facility on a parcel with a floodway and floodplain on it with access. Mr. Zacour explained that this was a unique property; it is 3.7 acres located on the north side of West Old Lincoln Way, and the property was landlocked except for a 20-foot alley that comes off of West Old Lincoln Way. Mr. Zacour continued that the land could not be used for anything. Mr. Zacour stated that the owner would like to construct a building for self-storage. Mr. Zacour explained that the only way to access the building for the use of the property is to access a drive on the very south and, by necessity, eliminate the buffer requirements and is ten feet from the R-2 residential zoning district with a six-foot fence along the property line to shield the proposed building. Mr. Zacour noted they also offer a zero setback from the south property line. Mr. Zacour stated that a large pond makes construction impossible for most of the property. Mr. Zacour explained that there was no other use for the property without the setback requirements. Mr. Zacour continued that there was a 75-foot setback for the building site, and the property allows for only about 35 feet. Mr. Zacour stated that the way the neighborhood came together, all houses were located on the far eastern part of the parcels. Mr. Zacour explained that the other setback for parking which with the only accessible area on the southeast corner of the property. Mr. Zacour continued that the building would have four units and as many as eight units. Mr. Zacour stated that the access alleyway was publically owned.

Mike Roberts, 807 West Old Lincoln Way, stated that he got a permit to fill in the area to use the property to get the property out of the floodplain; he hasn't received that paperwork back. Mr. Roberts explained that the building would sit on the only sized area where he can build a

building until he fills more property in. Mr. Roberts continued that he needed a project where they needed extra dirt removed to backfill the property. Mr. Roberts stated that the building was 48 feet by 120 feet. Mr. Roberts explained that the outside storage may have a few campers on the site. Mr. Roberts continued that the land was pretty flat. Mr. Roberts said there would be no overnight hours from 5 am to 10 pm. Mr. Roberts stated that the colors of the building would blend in with the area.

Mr. Marion stated that if the variances were approved, the next step is to submit an application to the Planning Commission for conditional use certificate and development permit. This is necessary because the property is adjacent to the R-2 single-family zoning district. Mr. Marion explained that the fence would be reviewed at that and require a separate application. Mr. Marion noted that all property owners within 200 feet of the property line received a letter regarding this application.

There was much discussion on moving forward with the project once the application and variances received approval.

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.

Mark Reynolds made a motion to approve applications BZA-23-8 as presented. Jeff Battig seconded the motion.

Mark Reynolds voted yes and stated that one has to be able to get the property to use it; the variances were needed, which was a reasonable request.

Jeff Battig voted yes and stated that this was a unique property and a viable use.

Martha Bollinger voted yes for reasons cited by the Board.

Jason Anderson voted yes for reasons cited by the Board.

Ben Gunn voted no and stated that there were issues with the land and the driveway and my concerns that this may set a precedence for this particular area of land. He said the more land that gets filled in, the more the building could be moved back away from the setback as you go further.

Stewart Fitz Gibbon voted yes for reasons cited by the Board and due to the unique circumstances without setting precedence, and this was the only use for this building. The motion passed 5-1.

IV. ADJOURNMENT

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

Stewart Fitz Gibbon, Board of Building and Zoning Appeals Chairman

Carla Jessie, Administrative Assistant