

## MINUTES

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

August 1, 2024

#### 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, and Ben Gunn were present. Board members Mark Reynolds and Jennifer Shatzer were absent. Vincent Marion, Planning and Zoning Manager, represented the City of Wooster.

#### II. APPROVAL OF MINUTES

Martha Bollinger made a motion to approve the minutes of the July 11, 2024, meeting of the Board of Building and Zoning Appeals. Jeff Battig seconded the motion. The motion carried unanimously 5-0.

#### III. APPLICATIONS

##### ***BZA-24-13.***

Terry Chapman requested an Area Variance from Planning and Zoning Code Section 1125.03(b)(4)(A.)(i) to allow a driveway within the required setback on parcel 71-00245.000 located at 2555 East Smithville Western Road in an R-1 (Suburban Single-Family Residential) zoning district.

Terry Chapman, 2555 East Smithville Western Road, stated that the zoning variance request for zero setbacks. Mr. Chapman explained that he moved back to Wooster after living in Canton for the last twenty years due to a job transfer at Timken Company. He retired two years ago and recently bought a house on Smithville Western Road. Mr. Chapman continued that the turnaround in his driveway was only big enough for a Fiat and was concerned about his family backing out onto the road because of the traffic. Mr. Chapman stated that he hired a contractor to make the turnaround bigger and install a full-length culvert in the ditch in front of the house. Mr. Chapman explained that looking at the Corporation Sign for the City of Wooster, I thought I was three houses outside the city limits and went to the county engineer and got a permit to have the work done, unaware that I was inside the city limits. Mr. Chapman continued that while the work was being done, I talked to my neighbor, and we decided to connect our existing turnaround, creating a shared U-Turn because it would be safer for us and our families. Mr. Chapman stated that as a result, my cement pad came up to the edge of his property line, and the contractor put in some gravel and connected the two turnarounds, making it safer for both families to pull in and out of our driveways. Mr. Chapman explained that a few days later, I received a letter from the city that I violated the zoning code, and once I found out that I was inside the City, I found out that the other side of the road was out of the city. My side was inside the city limits. Mr. Chapman continued that I got the proper and right-of-way permits from the City. I hope the city will grant the zero setback request for our family's safety.

Mr. Marion stated that if this were shared access from the street right of way, we would require a Shared Access Agreement to be recorded. Since both properties have independent access from the right of way and the connecting area is on their property, we would not require a Shared Access Agreement.

*BZA-24-13 and BZA-24-15 were heard together as the two properties are the subject of the variances.*

***BZA-24-15.***

Timothy Gallagher requested an Area Variance from Planning and Zoning Code Section 1125.03(b)(4)(A.)(i) to allow a driveway within the required setback on parcel 71-00244.000 located at 2533 East Smithville Western Road in an R-1 (Suburban Single-Family Residential) zoning district.

Timothy Gallagher, 2533 East Smithville Western Road, stated that he and Terry want to combine the driveways so that there is a turnaround due to Smithville Western being extremely busy, especially to the east with the hill. If you are backing out, it is difficult to see oncoming traffic.

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 applications BZ-24-13 & BZA-24-15 as presented. Jason Anderson seconded the motion.

Ben Gunn voted yes and stated that the applications meet many of the criteria: the tightness of the driveway makes it hard to turn around without tearing up the yard, both neighbors agree that a zero boundary line would be beneficial, and the turnaround is not unique to the neighborhood, which has multiple turnarounds.

Jason Anderson voted yes and stated that special conditions with the road traffic and the inability to back out onto Smithville Western Road.

Jeff Battig voted yes and stated that special conditions and circumstances exist and that the intent behind the zoning requirement was observed.

Martha Bollinger voted yes for the reasons cited by the Board and stated that, for safety, reasonable use of the property was minimally necessary.

Stewart Fitz Gibbon voted yes for reasons cited by the Board and stated that this was a reasonable accommodation, mainly because both homeowners agreed.

The motion passed unanimously, 5-0.

***BZA-24-14.***

Vincent Mariola requested an Area Variance from Planning and Zoning Code Section 1113.01(d) Table 1113.01 to allow an accessory structure in the front yard of 225 West Wayne Avenue, parcel number 68-02586.001, in an R-1 (Suburban Single Family Residential) zoning district.

Vince Mariola, 510 Beechwood Street, stated that we proposed to build a detached garage at this property, and we found out that the south yard is considered the front yard according to the city because that is the yard that faces Wayne Avenue. Mr. Mariola explained that this home has an address on Wayne Avenue. Mr. Mariola continued that the home has a shared driveway so that the driveway feeds the house to the right and feeds the house further to the north. Mr. Mariola stated that once you pull off of Wayne Avenue, you pull in on the shared driveway, go north slightly, and turn right onto 225 West Wayne Avenue. Mr. Mariola explained that the house faces west and not south towards Wayne Avenue, so we would like to place the detached garage in the homeowner's side yard. Mr. Mariola continued that the city considers it the front yard and was not permitted to put a detached garage in the front yard. Mr. Mariola stated that the request for the variance was because this is an unusual lot and that you have to pull off the main street and then into their driveway, making a second turn. Mr. Mariola noted that the detached garage would be at the top of a steep hill and hard to see from Wayne Avenue. Mr. Mariola explained that the garage would be built with the same materials, finishes, and colors, complementing the home. Mr. Mariola continued that we looked at other areas on the property to make the garage, but no other space was suitable.

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

Jason Sprull, 225 Wayne Avenue, stated that we considered adding to the current garage; however, three to four feet of dirt would have to be removed, and we are concerned about disturbing the existing footprint and water issues with the natural environment. Mr. Sprull explained that we talked a lot about preserving the home's beauty, and we purchased the house about three years ago. Mr. Sprull continued that the home was built in 1959 with a modern style, and we thought very carefully about what type of garage we wanted to put in that complements the style of the home and adds value to the neighborhood and home.

Mr. Fitz Gibbon closed the public hearing.

Ben Gunn made a motion to approve the application BZA-24-14 as presented. Martha Bollinger seconded the motion.

Ben Gunn voted yes and stated that the application meets multiple criteria, looking at the uniqueness of the property and a shared driveway. Most properties do not share a driveway with two other houses, which makes it impossible for this house to face the road. The neighborhood characteristics would not be changed, and the request was very reasonable. They have done an excellent job fitting the garage with the home's design.

Martha Bollinger voted yes and stated that the way the house sits makes it unique, and the request was minimal to make reasonable use of the property.

Jeff Battig voted yes for the reason cited by the Board and stated that with the land's uniqueness and the shared driveway.

Jason Anderson voted yes for reasons cited by the Board and stated that, given the odd shape of the property, the request could have been more varied.

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

The motion passed unanimously, 5-0.

***BZA-24-16.***

William Gantz requested an Area Variance from Planning and Zoning Code Section 1113.01(e)8G to allow a fence within the required front setback that exceeds the permitted height and is not fifty percent open at 1731 Hila Way (parcel number 67- 00508.000) in an R-1 (Suburban Single Family Residential) zoning district.

William Gantz, 1731 Hila Way, stated that my neighbor at 1745 Hila Way recently built a fence in February and received a variance in June for their fence. Mr. Gantz explained that my neighbor's backyard is thirty feet from my front yard. Mr. Gantz continued that there is a thirty-foot portion of the fence that I am proposing to build in my front yard. I am here to seek a variance for the height and visibility, and that would be starting ten feet in from the Hila Way property line and running thirty feet; the rest of the fence does not require a variance. Mr. Gantz stated that my issue with the wall is that they built a wood fence, which requires maintenance, and I will install a white vinyl fence. Mr. Gantz noted that there are about 30 inches between the fences but did not measure it, and it will be tight.

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.

Jason Anderson made a motion to approve the application BZA-24-16 as presented. Jeff Battig seconded the motion.

Jason Anderson voted yes and stated that the applicant would not be asking for the variance if the board hadn't already approved a variance for the neighbor. I think some special conditions and circumstances apply to this case.

Jeff Battig voted no and stated that primarily because the spirit and intent behind the zoning code requirement would be observed and substantial justice is done by granting the variance.

Martha Bollinger voted yes and stated that the variance is minimally necessary and whether the literal interpretation of the provisions of the code would deprive the applicant of rights commonly enjoyed by other properties in the same district.

Ben Gunn voted yes and stated that this was the least the property owner could do and couldn't solve the situation through another possibility with the spirit and intent of substantial justice done by granting the variance.

Stewart Fitz Gibbon voted yes for reasons cited by the Board. He stated that two months ago, we granted the variance to the neighbor and then did not allow the other neighbor the opportunity to respond in kind, and this is a unique situation.

The motion passed 4-1.

***BZA-24-17.***

J. Douglas Drushal, on behalf of the property owner, requested a Use Variance from Planning and Zoning Code Section 1109.02(d) to allow single-family attached dwellings and an Area Variance from Section 1115.03 for a reduction in minimum lot area in an R-1 (Suburban Single Family Residential) zoning district on parcel numbers 71-00279.000 and 71-00280.000.

Doug Drushal, 225 North Market Street, stated that the history behind the application needs to go back to another rezoning that went through the Board and then through the City Council, which was the Dairy Queen property. Mr. Drushal explained that those properties got rezoned to commercial to facilitate an improved Dairy Queen on that site. Mr. Drushal continued that the rezoning left the property with no buffer between residential and commercial, and this property is adjacent to the commercial property, which is very busy. Mr. Drushal explained that they thought about changing the zoning to R-3, which would make this work, but a use variance would allow single-family attached dwellings. Mr. Drushal continued that the area variance was needed for the lot size, which was minimal. Mr. Drushal stated that the request was unique and adjacent to the C-3, which was not before in Madisonburg. Mr. Drushal explained that the application consists of two parcels that will be reconfigured to create a drive on Smithville Western and a drive on Young Drive. Mr. Drushal continued that the duplex to the north would exit onto Smithville Western, and the duplex to the south would exit onto Young Drive.

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

Christopher Green, 1097 Greensview Drive, stated that the duplexes will not be directly across from the neighbor's pool. The building will be further south, so there will be a buffer zone in between. Mr. Green explained that the neighbor has a six-foot fence around the pool. Mr. Green continued that he owns the property to the south and is there quite a bit currently with the Dairy Queen that, there with one drive-thru, the new one will have two drive-thru, and you can hear them. Mr. Green stated that he bought the lot for his daughter

to build a house in the future, and there is no way I would build a \$350,000 house next to Dairy Queen. Mr. Green explained that he wanted to build two duplexes with two bedrooms, one-and-a-half baths, and a one-car garage, a very efficient single story that gears them toward young professionals and seniors. Mr. Green continued that when they rezoned the property, I had to reevaluate what I could do with that property. Mr. Green stated that he owns other rentals within the City and maintains the properties. Mr. Green noted that the properties will have turnarounds so they do not have to back onto Smithville Western Road.

Mr. Fitz Gibbon closed the public hearing.

Jeff Battig made a motion to approve the application BZA-24-17 as presented. Martha Bollinger seconded the motion.

Jeff Battig voted yes and stated that, after review, the expansion of Dairy Queen's footprint has made the property unusable as a single-family home, which was the intended purpose of the land, and special conditions and circumstances exist.

Martha Bollinger voted yes and stated that the neighbors' concerns are legitimate and complicated with all the changes taking place in the area.

Jason Anderson voted yes and stated that the landowner had owned the property before the city changed the zoning condition, which affected his ability to use it as a single-family home.

Ben Gunn voted no and stated that he was stuck on granting the variance, which would adversely affect the rights of the adjacent property owners. I understand the owner's concerns with Dairy Queen moving the building back. However, the Board approved area variances, the size and number of units that would go onto the property, and where it would position the privacy rights of the neighbors. This would adversely affect the neighbors and the adjacent property owners.

Stewart Fitz Gibbon voted yes for reasons cited by the Board and stated that this was a classic case of how you buffer between changes in uses. The neighbors would ideally just like to keep what greenspace they have left, and they would be happy. The fact that the property is owned by someone who has essentially had his property rights taken away, what is the subsequent best use? This was a reasonable alternative buffer between intensive commercial use and the R-1 residential zoning.

The motion passed 4-1.

#### **IV. ADJOURNMENT**

Jason Anderson moved to adjourn. Martha Bollinger seconded the motion. The motion passed unanimously, 5-0.

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Stewart Fitz Gibbon, Board of Building and Zoning Appeals Chairman

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Carla Jessie, Administrative Assistant