

BOARD OF ZONING APPEALS

Minutes of Meeting

August 17th, 2021

4:30 pm

Attendance: Members Dave Lundgren, Chairman; Mike Aeling, Billy Ray and Eddie Williams; Zoning Inspector Shane Howard, Assistant Law Director William Morris, Engineering Clerk Candice Martin.

Meeting held in person at the Alliance Senior Citizens Center: The meeting was called to order by Chairman Lundgren at 4:30 pm. Dave Lundgren, Mike Aeling, Billy Ray, and Eddie Williams were present.

1. Minutes from the July 20th, 2021 meeting:

Aeling makes the motion to approve the minutes with Ray seconding. Williams abstains due to his absence from the July 20th meeting. Roll call vote. Lundgren, Aeling, and Ray are in agreement. Minutes approved.

Chairman Lundgren reads the Board of Zoning Appeals procedures including appellant recourse.

2. Herb Watson – 1119 Auld St. -- Appeal #21-019

Use Variance Sec.1122.03 Land Use Table, Duplex in a R-1

Shane Howard is sworn in: Zoning Inspector, 504 E. Main St. Alliance, OH 44601. Howard explains the appeal is for a use variance for a two family unit in an R-1 Zone. Howard looked at the history of the property and could only find evidence of a single water bill, electric, gas meter, address, etc. All signs reflect it only being used as a single family home. However, it is set up as a duplex. Since there is no back record reflecting it ever used as a duplex it cannot be shown to be grandfathered into the previous zoning code.

Lundgren asks if there has been a change at all or has that been consistent in the past.

Howard replies it has been consistent. There is an upstairs and a downstairs and the only way to access the upstairs duplex is by steps from the outside.

Lundgren states that on that side of the street is R-1 and across the street is industrial.

Ray asks if there are any other duplexes or multi-family units in the area.

Howard replies it is hard to say. He would have to look into it. It is a hard thing to figure out.

Lundgren asks if there is anyone to speak in favor of the appeal.

Mr. Herb Watson is sworn in. Owner of the home: he lives at 2189 Hedgewood Ave., Alliance, OH.

Mr. Watson explains that he bought this property in January from a friend. He used to live around the corner in the late 90's and 2000's and he has always known this property to be an apartment. He never realized that it wasn't an apartment and he never would have bought it if he had have known it had this issue. The issue came to light when his bank sent someone out to do an appraisal. Mr. Watson mentions that on the next street on the corner is a multi-unit and down the street where the old Furry's was located was a multi-unit as well. Mr. Watson also mentions that he is unsure how this home could have ever been anything other than a multi-unit unless part of the home has been removed. There is nowhere inside the home that the stairs to the upstairs could have been.

Ray asks how the mail has been handled.

Mr. Watson replies there was only one mail box when he bought it. He has since placed two mail boxes for the up and downstairs.

Lundgren asks if there is anyone else to speak in favor or in opposition. – No one else comes forward.
Declares this public portion of the meeting now closed.

Board Members Begin Discussion

Lundgren feels there are two issues: how it has been used historically and that it is a mixed use area.

Williams asks about the parking situation.

Mr. Watson replies that 4 vehicles can be parked in the back and there is street parking as well. It has its own parking lot.

Williams further says that if it has been used like this in the past and parking is not an issue he is comfortable making a motion.

Williams moves to approve the variance. Aeling seconds. Roll call vote. All in favor. Motion Passes.

3. Wade Keester – 1445 E. Patterson St. – Appeal #21-020

Use Variance Sec.1122.03 Land Use Table, Vehicle repair in a R-1

Howard explains that this appeal is located at the corner of Patterson and Mahoning. It was originally a drive-thru and now is an auto repair. The zoning is now R-1 and doesn't allow it. If it had the same use it could have stayed a commercial use but since the use is changing to the auto repair it will need a use variance.

Williams asks if the drive thru and automotive repair would be able to be swapped in a normal business or commercial zone.

Howard says no.

Ray asks if there are any other building codes that have to be met.

Howard replies yes. If the use variance tonight is granted, the business will still have to go to Planning Commission. They will have to meet parking requirements and screening requirements. They will also determine whether he will need a concrete drive. That is a requirement with the change of use. There is some asphalt there but it is broken up. Others include: outdoor storage of vehicles, so many parking spots, whether he will asphalt or concrete because solid surface is a requirement or a variance will be requested to remain gravel. There will be more things that he will have to go through with Planning Commission. Since it is an existing site, he will not have to provide a full site plan.

Wade Keester is sworn in. WR Automotive. 1445 E. Patterson St. SW.

Lundgren asks what type of work will be done.

Mr. Keester replies shocks, breaks, motor work, transmissions, etc.

Lundgren asks about body work.

Mr. Keester replies no body work will be done.

Lundgren asks how many vehicles can be inside at one time.

Mr. Keester replies that he has one bay right now and only one employee: himself.

Aeling asks if he plans on adding more employees or adding more space.

Mr. Keester answers that he would like to add more employees and another bay inside the building later on.

Williams asks if the entrance and exit will change or will he be keeping the two doors the same.

Mr. Keester replies that they will stay the same.

Mike Anstine is sworn in. His business address is on Armour St. Mr. Anstine has been working with Mr. Keester on this property. This is Mr. Keester's first time as an entrepreneur to be self-employed.

Lundgren asks how long the drive-thru has been closed.

Mr. Anstine is not sure. He just acquired the property.

Howard replies that it has definitely been well over a year.

Mr. Anstine also mentions that arrangements have been made with the owner of a fenced in lot across the street to store excess cars.

Lundgren asks if there is anyone else to speak in favor or in opposition. – No one else comes forward.

Declares this public portion of the meeting now closed.

Board Members Begin Discussion

Lundgren mentions that this is similar to the last one in that it is a mixed use neighborhood. He feels it is better that the building will be occupied than empty. It is also a lighter use than a drive-thru because a drive-thru would have a lot more traffic.

Williams mentions an aerial shot of the property. He feels the building is small for the size of the parcel.

Lundgren agrees and says that driving by and looking at it he feels the use would not look out of place for the area.

Aeling makes the motion to grant the use variance. Williams seconds. Roll call vote. All in favor. Motion passes.

5. Tiffany Lucas- 1133 Apple Ave. –Appeal #21-021 – Minimum rear yard 5ft. variance and encroachment 6ft. variance Sec. 1130.13(b)(i) Yard Encroachment.

Shane explains this appeal is for a deck to be built at the rear of the property. The property received a variance in 2002 for rear yard setback. They asked for an 18 ft. variance. The site plan submitted in 2002 is the only thing on record we have of where the setbacks are. One cannot encroach into the rear minimum yard setback more than 15ft. Their encroachment is more than 15 ft. He does not know the exact area of the backyard. Scaling it from the Auditor's website, which is not the most accurate he says, equals 34 ft. They asked for an 18 ft. variance and they are only 6 ft. different from what the City wants at 40 ft. Without an official survey to know for sure, he believes they are somewhat close to what the Auditor's website says. They still don't meet the minimum rear yard which they need to for encroachment. Lowe's has told him they will be 14 ft. from the edge of the property line from the back of the deck. Until it is surveyed, he doesn't know for sure how much of a variance they need to have. He asks if we should allow more encroachment on the rear lot not knowing the total lot size.

Lundgren notes it is difficult just by driving by to see what is going on back there.

Howard presents a drawing where he scaled out the proposed property line. Howard explains the fences are all protruding past this.

Ray asks how they were able to build the fences.

Howard responds that they are either on the alley or it's the back side of the property.

Ray asks about the permitting process.

Howard says they submit their application and explain how many feet off the lot line they plan on being. We do not require a survey to know for sure if they are right. It is the neighbor's responsibility if they have a problem with where the fence went to survey it and prove the fence is on their property.

Lundgren asks if there have been any complaints.

Howard said no. It would be our City alley if there is a problem. Therefore the city is the neighbor.

Williams said that he looked at the aerial map on the Auditor's website and it looks like the house off of River Street's backyard is an alley way and the fences on Apple are running parallel to it.

Howard says it is not a very large alley. The aerial is showing that either their fences are in the alley or part of a driveway is.

Tiffany Lucas is sworn in. Home owner at 1133 Apple Ave. Alliance, OH. Mrs. Lucas explains that she purchased the home in March but she has lived there for 5 years. They installed their fence after the neighbors already installed theirs. They just followed the same perimeter line as the neighbors'. Now that they own the property they want to add a 32' x 16' deck. Their deck will add property value and activity use.

Williams asks if she knows the 14 ft. and 7 1/4 inch dimension between the end of the stairs and the property line. He also asks if it is from the fence they are measuring off of.

Mrs. Lucas replies yes.

Williams states that if the fence is on the property line it would be 14.7 ft. but we are unsure if that is for sure the property line.

Ray asks why the deck can't be made smaller.

Mrs. Lucas explains that they have already scaled it back from the size they originally wanted. 16 ft. is how long the board is so that is the easiest way for them to do it and the most economical is the 8 ft. opening for the stairs down into the yard. She was informed a variance would be needed days before the install.

Lundgren says that the boards would just need to be cut to make it smaller. Have they thought about downsizing the size of the deck.

Mrs. Lucas says that this is the dimensions given to her by Lowe's that would allow them to make the most of their yard. They want to make the most of their yard without violating anything because currently they don't use it.

Ray asks about the height.

Mrs. Lucas is unsure.

Aeling asks if she would be opposed to moving the steps to the side instead of exiting to the back of the yard.

Mrs. Lucas answers no.

Aeling explains that the stairs are causing an encroachment of an extra 5 ft. into the back yard with tread being 10 inches that is 5 ft.

Mrs. Lucas states that the deck as designed is convenient for them. It makes it even where the stairs are and they enter out into the back yard. She can call Lowe's and see what they can do. They might need to come out and measure because she doesn't know how close that will take them to the fence since her fence is on all sides.

Williams says if stairs went out the North side of the deck where the deck doesn't go beyond the corner of the house.

Mrs. Lucas says that she is fine with that; however, her gateway is on the other side: the southwest corner. Maybe she can add a gateway on the other side. The way they are designed currently makes it an easy accessible solution. If they have to carry things they don't have to go all the way around.

Melissa Lucas is sworn in. 1133 Apple Ave. Alliance, OH. Mrs. Lucas just wanted to add that the reason she understands for the length of the deck is because they have French doors to the deck. She also wanted to add that they didn't want her grandfather to have as many steps. She mentions they have 4 steps.

Williams says that he imagines that the deck is around 3 ft. to 4 ft. high then for four steps.

Lundgren asks if there is anyone else to speak in favor or in opposition. – No one else comes forward. Declares this public portion of the meeting now closed.

Board Members Begin Discussion

Ray thinks that there is a simple fix. Cutting the boards off 5 or 6 inches will allow them to fit within the requirements. There should be a reduction of cost.

Lundgren agrees.

Williams asks Howard to clarify what the 15 ft. encroachment is and asks if it is not allowed to extend more than 15 ft. beyond the rear of the house.

Howard replies that as long as one meets the minimum rear yard setback. Correct.

Williams further states that he has been looking at this issue that they needed 15 ft. from that rear fence to the edge of the stairs. The way he understands it now, Howard is stating that there needs to be 15 ft. from the back of the house to the end of the deck and including the stairs. To be 100 percent compliant the stairs would have to go off the side of the deck and the deck couldn't be any more than 15 ft. deep.

Howard replies correct. He adds that we also don't know if the yard is where it is.

Aeling says there is still the question of the yard depth. If they made a 15 ft. deck it is still in question or not he asks.

Howard replies that he still doesn't know if they met their rear yard. One part says they might if the fence is on the lot line. The Auditor's website, which isn't always accurate, shows the lot lines inside the fence. But in the variance on record they asked for an 18 ft. setback with a site plan with nothing else submitted.

Lundgren asks if the issues at hand can be restated.

Howard replies encroachment and the fact it needs to meet the minimum rear yard for expansion into the encroachment.

Aeling makes the motion to approve the variance on the condition they move the stairs to the side. Williams seconds. Roll call vote. All in favor. Motion passes.

6. Dennis & Beth Polito – 202 N. Freedom Ave. – Appeal #21-022 –

Use Variance Sec. 1122.03 Sec. 1122.03 Land Use Table, specialty shop in an I-1.

Howard explains that this property used to be called the Castle or the Cabana Club. The applicants would like to use this property for wine sales and as a wine tasting specialty shop. The wine sales are covered under its prior use as a restaurant. That part of the use stays the same. This will be considered a specialty shop because they will also be selling soap. The retail part is not a permitted use in an I-1. They will need a use variance for a specialty shop in an I-1.

Vanessa Akins Cercone is sworn in. 776 N. Union Ave. Alliance, OH. Ms. Cercone is representing the project. Ms. Cercone explains that the building has been a restaurant or bar for many years. She further explains they will be keeping their liquor license which came with the building and getting their food safety license. Mrs. Polito also handcrafts soap and would like to have a display at the building. She mentions that it is located in an I-1 but retail is right across the street at the auto parts store. These owners are trying to make the most out of the space they have and trying to create a niche shop.

Lundgren asks if there is anyone else to speak in favor or in opposition. – No one else comes forward. Declares this public portion of the meeting now closed.

Board Members Begin Discussion

Lundgren mentions that the appeals on Auld, Patterson and Freedom have totally different uses within feet from each other.

Aeling mentions that if they go back far enough there was retail there. Back behind the bar there is a photograph. That photograph is a picture of his great great grandfather and it used to be a grocery store probably 130 years ago.

Williams asks if the wine will be made there.

Ray asks about the soap.

The answer to both was no.

Aeling moves to grant the variance. Ray seconds. Roll call vote. All in favor. Motion passes.

7. Sarchione Ford Lincoln – 2431 W. State St. – Appeal #21-023 – 20 ft. Right-of-way setback variance and 10 ft. access drive setback variance Sec. 1162.31(a) Outdoor Sales.

Howard explains that Sarchione's has acquired a parcel between the old McKinney's and the old Cornerstone/Loudon are. One parcel is grandfathered in, the other parcel received variances for the setbacks on it. Now there is this parcel in the middle that will need a zero setback from the access drive and 0 setback from the right-of-way to match the other two.

Lundgren asks what will happen if we don't approve it.

Howard replies that it will sit back 20 ft. from the right-of-way and a vehicle cannot be any closer than 10 ft. off of the access drive. Every way would have to be 10 ft.

Ray asks about the minutes from the meeting when they approved the McKinney parcel. Ray remembers the representative saying that the lot would be used as a staging lot. He believes it is being used to place cars for sale on instead.

Lundgren recollects that as well.

Aeling asks if they bought Cornerstone/Loudon.

Ms. Akins Cercone replies no. Cornerstone is being leased as is this parcel from Crestview Ventures. Crestview Ventures will not sell those parcels.

Ray states that his only issue is that they were told the lot would be used as a staging lot. A couple of weeks later buildings are painted black and cars are lining up.

Lundgren and Williams agree.

Ms. Akins-Cercone explains that they painted the buildings black to create some consistency. They are still just using the lot for staging. Last night she drove by and there were six vehicles parked in front of McKinney's and eight in the gravel parking lot that is being discussed currently. They are not buying it or developing it. Because the old Cornerstone/Loudon was grandfathered in with all the easements and where they can park they then received all the variances so they could continue to park in it like a parking lot. This lot was not included in the conversation because the lease was in the works but not finalized yet. The only reason they are asking for the 20 ft. right-of-way variance and 0 setback, is because the other two on either side already have it and are parking up to the sidewalk. There is a drive apron off of State St. and they have that blocked so no one can drive over there. They are not trying to direct traffic over there or customers. They are just spreading their inventory out and trying to increase their visibility along the road. They are rotating them in and out. After they get dropped off in the McKinney's parking lot they are setting over there until they go to the main lot. They are using Cornerstone as their new detailing area. Used vehicles/ trade-ins are taken over there to get detailed. Ms. Akins-Cercone further says that they are not pulling one over on the board. Image means everything on the main corridor coming into town and they are trying to create a consistent look through there. The gravel parking lot will not be paved. It will not be developed because they do not own it. The Mastroianni family owns it and will not sell that property because they have future plans for it.

Ray mentions with a consistent row of vehicles it will make it difficult for people who are coming in and out of lots to be seen by drivers on State St.

Ms. Akins-Cercone replies that they realize this and that is why they already don't pull all the way up past the sidewalk. They are aware for public safety's sake.

Williams says in the parcel view they received, the cars are parked to the edge of the gravel lot. He asks if they want the variance to move the cars up to the grass.

Ms. Akins Cercone replies no. The cars will stay on the gravel.

Williams asks why is a 0 setback from the right-of-way needed if they are not going to park in the grass.

Ms. Akins-Cercone replies it is for consistency only. They will not be parking in the grass.

Lundgren mentions that consistency can also work if they move everything back to be consistent with current setbacks for this.

Williams states that if they are not going to park the cars in the grass he is confused what the purpose of getting a variance is.

Ms. Akins-Cercone replies perhaps at some point they may. Right now there are no plans to develop anything, add more gravel, or park the cars out there.

Williams clarifies that they are going to leave the lot as it stands and leave the cars where they are but they still want this variance anyway.

Lundgren also clarifies that the cars will be set back as they are now, but asks if they want a variance so they can move up. Lundgren also says that there is no actual change now but asks if there may be a time in the future they may want to.

Ms. Akins Cercone responds that if any changes to the property are to take place they would have to come before Planning Commission with a full site plan.

Lundgren asks if there is anyone else to speak in favor or in opposition. – No one else comes forward. Declares this public portion of the meeting now closed.

Board Members Begin Discussion

Lundgren says that everything on that part of State St. has a set back and it clearly looks out of place. He feels it looks a lot better with a setback.

Williams says that having that green space he feels give a more welcoming presentation as they enter the corridor. He feels that if they have no plans to move the vehicles up he doesn't see the purpose in granting it.

Aeling agrees.

Ray adds that they were not aware that they were going to lease the Loudon building when they obtained the variances. He feels there is only one reason they purchased McKinney's and that is for a lot. Eventually, cars will be parked on it.

Ms. Akins Cercone replies that they did not purchase the McKinney's building to expand the lot. Ms. Akins Cercone further explains that anytime one is dealing with Chevy and Ford there are lot requirement sizes and it is not nearly large enough. They originally purchased it for corporate offices; however, they are not moving forward with that plan. The building is now just sitting there. They are using it to off load vehicles because of the fiasco with the mall.

Lundgren asks Ms. Akins Cercone to explain the fiasco.

Ms. Akins Cercone explains that Sarchione had a lease with the mall for offloading vehicles but now that it is in the process of being purchased that lease is gone.

Williams suggests that the Board could deny or approve both or it could be looked at as two separate variances: zero setback from the right-of-way and zero setback from the access drives.

Ms. Akins Cercone request that they be separated out.

Williams asks if the decision to deny can be reversed in the future.

Howard responds that it is being denied for the use that it is. If another entity comes in and wants a zero setback it can be heard again. The appeal form asks if they appellant(s) have ever asked for a variance before and if so what was it for. Howard asks if legally they can ask for it again.

Mr. Morris believes the period is one year.

Williams asked what would happen if they came up with plans as a dealership to make improvements. If they provide their masterplan with McKinney's, this parcel, and Cornerstone/Loudon's, could they come back and ask for it again.

Howard replies yes especially if they come back and say they are not using it for storage and explain they are using it for selling cars and it is not a staging area anymore. Now it is different.

Williams moves to deny the variance request for the zero setback on the right-of-way. Aeling seconds. Roll call vote. All in favor. Variance denied.

Williams moves to approve access drive variance. Aeling seconds. Roll call vote. All in favor. Motion passes.

8. Other Business

None.

Meeting adjourned at 5:55pm.

Respectfully Submitted by:
Candice Martin
Engineering Clerk