

**BOARD OF APPEALS**  
**Minutes of Meeting**  
**January 19th, 2021**  
**4:30 pm**

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

**Meeting held by telephone conference due to COVID-19 pandemic:** The meeting was called to order by Chairman Lundgren at 4:33 pm. Due to the COVID-19 pandemic, BZA members participated by Zoom conference. Dave Lundgren, Mike Aeling, Billy Ray, and Eddie Williams present.

**Virtual Kiosk:**

No one attended

**1. Election of Officers**

Chair Position

Williams makes motion to retain Dave Lundgren as Chairman. Roll call vote. All are in favor. Lundgren retained as chairman.

Vice Chair Position

The Vice Chair position was held by the late Arnie Hirvela. Aeling motions to table vote for further discussion at a later time. Williams seconds. Roll call vote. All are in agreement. Vice Chair vote will be tabled until replacement is found for Arnie Hirvela.

**2. Minutes from the December 15th, 2020 meeting:**

Aeling makes the motion to approve the minutes with Ray seconding. Roll call vote. All are in agreement. Motion passes. Minutes approved.

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

**3. Alihassan Land Co LTD – 1686 S. Union Ave. -- Appeal #21-001**

10' Pole sign Sec.1134.06(e) Minimum side yard 5' Sec.1134.06(e)(iii)

Shane Howard is sworn in: Zoning Inspector, 504 E. Main St. Alliance, OH 44601. The owner would like a sign out by the road. With the way the lot is situated and with the property's parking area to the North so close, installing a monument sign at that location may be a safety concern so it was suggested that the owner seek a variance for a pole sign. The canopy is correct to the size of the frontage of the building. The pole itself is 10 ft and the sign ordinance states that the top of the monument sign can be a maximum of 10 ft. Therefore, a variance on height will also be needed as well. The pole, the height, and the side yard setback is what is needed. On the North side he is asking for 5 ft. The zoning regulations state 10 ft.

Bayan Alihassan is sworn in. Owner with business address 2105 S. Union Ave. Alliance, OH 44601. Mr. Alihassan explains that for safety purposes it is in their best interests to have the sign above the ground. They don't want

cars backing up or pulling in to have a blocked view when they are turning back onto Union Ave. He stated that he spoke with Pat Heddleston from Mount Union College and was told they have no opposition with it and are happy to see it happen. The neighbors are ok with it.

Lundgren mentions that he believes the pizza shop building South of his building has a pole sign. Mr. Alihassan replies yes they do on the South corner.

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

Williams states that there is currently no sign at that business and with a monument sign being a safety hazard at that location he feels this is a good solution to the problem.

Lundgren asks Howard to restate the variances.

Howard explains that there are 3 variances needed: The sign will be 13 ft. total. So the height will be 3 ft additional to what is permitted for a monument sign (10 ft). The side yard setback should be 10 ft. He is asking for a variance for 5 ft. Also, it is a pole sign instead of a monument sign which is required.

Williams asks about concerns of the above electrical lines. He believes there are clearances that have to be thought about.

Mr. Alihassan responds by saying that it is coming cattycorner off the pole to the building and there will be no obstruction. Obviously if there is any it would be accommodated. It is more in toward the parking lot in line with the building property line.

Aeling makes the motion to approve the 3 ft. height variance, 5 ft. side yard setback variance, and the pole sign instead of a monument sign variance. Williams seconds. Roll call vote. All are in agreement. Motion passes.

#### **4. James Patrick – 1317 S. Rockhill Ave. – Appeal #21-002** Shipping container in a R-1 for Accessory Building. Sec.1130.08

Howard explains that the resident has a shipping container that is 40 ft. x 9 ft. and wants to use it as an accessory building. Per the zoning code, a shipping container is not permitted as an accessory building.

Ray asks Howard if it is specifically called out that shipping containers are not considered accessory buildings in the code.

Howard responds no it is not. He goes on to say that it is not saying it is permitted either. The shipping container does not fall under the requirements of an accessory building nor does it fall under building.

James Patrick is sworn in. Owner at 1317 S. Rockhill Ave. Alliance, OH 44601. He explains that he compared the price of Amish made barns with the price of a used shipping container and the shipping container was less money and more space. He uses it for tool storage and a workshop. He looked at the City ordinances and nothing he saw prohibited him from using one.

Williams asks Mr. Patrick when it was installed.

Mr. Patrick replies that it was installed the week before Thanksgiving.

Ray asks Mr. Patrick if he plans on doing any upgrades to the container.

Mr. Patrick responds by saying it is ugly for the neighbors but also for himself as it is in his own back yard. He plans on creating a shell around it. He spoke with an architect that will do some trusses, a roof, and a front porch with a fire pit. It will look nice. He also didn't want to do anything with it until the appeal was finished.

Lundgren asks if Mr. Patrick has any drawings.

Mr. Patrick said he didn't want to spend money on an architect until the appeal was taken care of.

Lundgren asks if there is anyone else to speak in favor or in opposition.

Howard reads a letter of opposition from an anonymous neighbor.

"Honorable Board members:

I am writing to express my opposition to the metal shipping container located at 1317 S. Rockhill.

These containers are against code and for that reason alone should not be permitted. In a residential area this type of unit will most certainly reduce property values and should be removed.

If it is allowed, anyone can construct, install, or add any object they desire to their property. Including undesirable additions to their house, even a Tiny House in their back or front yard, or another container of the same type or one of similar features.

Even with improvements it is still a shipping container, same as you would see at a rail yard, or shipping yard. And very similar to a large metal box container used for the collection of trash or garbage.

We are relying on you, in your wisdom as stewards for the city, to not allow this violation to go forth, and keep our neighborhood integrity in place."

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 doesn't see much difference between this and someone rolling off a little red barn and putting it in their backyard. There are also several of these already in the City in use: one off of Cambridge St. N, another on Rockhill.

Williams recalls this issue coming up on Vine St. a year and a half ago. A resident had one placed in their back yard. The board denied their variance request; however, he cannot recall the specifics about why they arrived at that decision.

Aeling recalls this as well. The resident was working concession stands and had trailers in his yard. He believes it was the amount of vehicles the resident had there as a whole which was the reason it was denied.

Aeling goes on to say that they use shipping containers for storage where he works. They are very commercial looking. They are an eyesore in a residential area. If Mr. Patrick is planning on updating it, he sits back off the road enough, maybe he can make it look like a structure.

Williams says he wants to make sure if precedence has already been established he wants to make sure it is being followed.

Ray said that he checked other City ordinances where they specifically state that shipping containers can not be used as an accessory building. There is not a lot of specific language in our code and Ray would like to see the council change it if they want to add a line saying that shipping containers cannot be used as an accessory building. There are no specific rules on that except that one needs to get a permit for a specific size building.

Lundgren believes they can vote to accept the variance with conditions. For example, something could be said along the lines of, "fixing it up to fit into the residential neighborhood so that it does not look like a shipping container." As a structure it would be an accessory building that would be allowable under the code. He agrees with Ray that there is a gap in the code. It is not specific. But he believes the issue is more the look than the size.

Aeling believes it is the definition of a shipping container and that of a building. Aeling questions that if a shipping container is allowed could not also a semi-trailer be allowed if the wheels are off. Aeling further states that if allowed, the owner may plan on fixing it up next year, or in two years, or in ten years. He asks if we can hold them accountable so that it must be done within three or six months' time frame.

Lundgren says that he believes Mr. Patrick would like some guidance so he can come back with plans and specifications. We don't want him to come back and have spent more money and we say we don't like it after all and it's not going to work. For Mr. Patrick's sake we want to be clear on what we need and for the City's sake we want to make sure that what he says is going to happen happens. If he spends money and has some plans drawn up, not just scribbled down on paper, then we are both committed. Lundgren states that what Mr. Patrick says he is going to do sounds like it will work but he doesn't want to approve it now until he sees what it looks like.

Howard adds that altering the shipping container will require an engineered set of drawings because it is considered non-conventional construction.

Lundgren states that there are costs associated with all this that Mr. Patrick needs to evaluate.

Mr. Morris adds that he doesn't believe a shipping container is a structure which is what is required to be an accessory building. Putting construction material on it could convert it to being a structure: trusses, roll door, and siding. He suggests the board table it and see if Mr. Patrick can come back in 30 days with more specific plans. He may not be able to get engineered drawings by then but he may be able to talk to an engineer and see what is involved and come up with a better proposal. He also agrees with board members that giving a vague approval tonight will be difficult to enforce later.

Williams moves to table. Aeling seconds. Roll call vote. All in favor. Item tabled.

**5. Alliance Ventures—632/652 Scranton Ave.—Appeal #21-003**

- A. 632 rear yard setback, lot minimum area, maximum lot coverage
- B. 652 rear yard setback, lot minimum area. Sec.1124 Schedule of Regulations Table

Howard explains that the owners are planning on removing the duplexes from the property and replatting them into individual lots. This appeal has to be divided up into the two addresses.

- 8,400 is the requirement for the lot size
- 40 ft. rear yard setback required
- Total lot coverage allowed is 25%

Address 632 needs a variance for the rear yard setback, lot minimum area, and maximum lot coverage.

Address 652 needs a variance for the rear yard setback, and lot minimum area.

Lundgren says that when he looked at the homes on Scranton they are on the backside of the old grocery store. There is a fence along the line. Lundgren asks Howard if the fence will be moving.

Howard states that the fence itself is where the property line will be.

Howard further explains that right now the grocery store and the duplexes are on one parcel. The homes are being separated from the parcel and they will be creating non-conforming lots. They are asking for the variances because they will be non-conforming.

Ray asks if they are adding the lot beside 652.

Howard replies yes it will go in with 652.

Lundgren summarizes that everything is essentially staying the same.

Howard answers yes that is correct. The only difference is that instead of the fence being just a fence it will now be the property line.

Vanessa Akins-Cercone is sworn in. Akins Surveying 776 N. Union Ave. Alliance, OH 44601.

Robert Akins Sworn in. Akins Surveying 776 N. Union Ave. Alliance, OH 44601.

Mr. Akins explains that the two duplexes were on the same outlot as the old grocery store. Alliance Ventures wishes to separate them and sell the units. They have to replat which creates two new lots that do not conform in several facets. The units have been there. The proposed property line is 1 foot beyond the wooden fence.

Lundgren asks for a breakdown of variances.

Howard breaks down numbers for each. Ms. Akins-Cercone provides the numbers for the lot size variance needed for each address.

632 Scranton

- Needs 28.2 ft. variance for rear yard setback.
- 4,262 sq. ft. variance needed on lot size.
- Need 381 sq. ft. variance for max lot coverage.

652 Scranton

- Need 26.2 rear yard setback is needed.
- 2,868 sq. ft. variance needed on lot size.

Lundgren asks if there is anyone else to speak in favor or in opposition.

Doug Schwarz is sworn in. Property Manager for Alliance Ventures. 237 Overlook Dr. Alliance, OH 44601.

Mr. Schwarz explains that in order to sell the two properties they had to go through the step of replatting them.

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 relists variances:

632 Scranton

- Needs 28.2 ft. for rear yard setback.
- 4,262 sq. ft. variance needed on lot size.
- Need 381 sq. ft. variance for max lot coverage.

652 Scranton

- Need 26.2 ft. variance for rear yard setback is needed.
- 2,868 sq. ft. variance needed on lot size.

Aeling makes motion to approve all above variances. Williams seconds. Roll call vote. All are in agreement. Motion passes.

### **6. Alliance Ventures – 653 Union Ave. – Appeal #21-004** Warehousing in a B-2 Sec.1122 Land Use Table

Howard explains that the building is currently being used as a warehouse which is permitted in an I-1 and an I-2 zone but is not permitted in a B-2 per the land use table. The owners will need a use variance for this property to use as warehousing.

Attorney Brent Barnes is sworn in. 1844 W. State St. STE. A, Alliance, OH 44601. Mr. Barnes is an attorney hired by Alliance Ventures to assist in this use variance appeal. They are asking for a specific use variance from a commercial use B-2 to a light industrial use I-1 for indoor storage warehousing. Mentions a memorandum sent to the board that was attached to the appeal. He asks that it be incorporated into the record.

Attorney Barnes explains background. Property has been known as Super Duper or Thornes IGA over the years. It was purchased out of bankruptcy liquidation in 2017. It was purchased by a family with a long line of grocery experience. After 8 months that business failed as well. The previous owners cited lack of customer demand, theft, vandalism, shoplifting as reasons. The prior owner ripped everything out of it when it was bought by Alliance Ventures. Any type of useful infrastructure that could be used by a grocery store was taken. Alliance Ventures has a 50,000 sq. ft. building that is impossible to find a tenant for B-2 purposes. Knowing this would be an issue; Alliance Ventures has been working with Joe Mazzola from the City of Alliance Community Development to solve the issue. He put them in touch with a manufacturing company called Sun America.

Lundgren confirms that the board does have the memorandum as part of their packets.

Mr. Schwarz explains that the building sat empty for 2 years after Sander's closed in Dec. of 2018. It was stripped and gutted. The property was purchased by an outside firm from Connecticut: a grocery company. They placed the building up for sale several months ago. Gerard Mastroianni talked with his siblings that own Alliance Ventures about it because that part of town is special to them as that had grown up in the first house on Scranton. Their father owned the Buckeye grocery store in 1947. When the grocery store went up for sale Gerard wanted to buy it because he didn't want to see the building become an eyesore. They wanted to keep up the building and maintain it even though they had no use for it. During a Development Meeting with Joe

Mazzola he mentioned they should contact Sun America because they are looking for warehouse space. He is glad it can be used in this manner.

Ray mentions the memorandum Section 6 E and F. Ray asks if they can elaborate a little. Is the gas station being removed and tanks, will there be landscaping on Union Ave?

Mr. Schwarz replies that they have contacted two companies to remove the structure and tanks. Sometime this winter is the best time to do it. They do not have a formal contract signed but they do have a contractor lined up. As far as additional landscaping they do not have any plans but from their track record of other properties they own in town they will take care of the property.

Michael Claxton is sworn in. Sr. Vice President of Sun America at 46 N. Rockhill Ave. Alliance, OH 44601. Mr. Claxton explains that the plant on Rockhill housed their production and warehousing completely. As they have expanded their production capabilities they have had to convert their warehouse into production and so have had to look for outside warehousing. They needed more space for finished goods. It was fortunate with the timing that Alliance Ventures had space and he needed space. The building on Union will provide what he needs right now for storage of finished goods. It will strictly be a warehouse. Finished goods will be brought from Rockhill to the Union warehouse. It will have 2-5 employees. A box truck will be used to move products from production to the warehouse. From there it will be shipped out to customers. This building is appealing because they are food safe certified and the building has environmental control heating and cooling which is what is needed for their products.

Lundgren asks what type of products will be stored.

Mr. Claxton explains that they make cupcake liners and plastic packaging for the commercial food industry. The baking cups and plastic packaging that contains baking items one gets at the bakery.

Lundgren remarks that the environment needs to be very clean.

Mr. Claxton replies absolutely. The building must be clean enough to support food safe certification.

Williams asks about shipping.

Mr. Claxton explains that on average it will be 3 to 5 trucks per day. It will take place during normal business hours Monday through Friday. They are on appointments because they only have 2 docks. There will be no back ups. They use the same truck drivers and it will be the same procedure they are used to.

Ray asks why they are not pursuing getting the area rezoned to I-1.

Attorney Barnes replies that it is the least restrictive change to the property. Under I-1 presumably light manufacturing could take place but that is not the intent in this case. No manufacturing or raw materials will be stored outside. They feel asking for a use variance would be the least restrictive.

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 believes it will be a great use and will be an improvement to the area.

Williams agrees with Lundgren that it is a good use for the building since it has been sitting vacant and he doesn't feel that the use variance is unreasonable. He also likes that they are requesting a variance for the property as it sits as it is zoned versus changing the zoning because it could open the property to less desirable

I-1 manufacturing in the future should Sun America move out and something else move in. He believes the use variance is a good solution.

Lundgren also mentions that it will be a lighter use than when it was a grocery store. When it was a grocery store, semis unloaded on a regular basis for suppliers. The use, the trucks, the traffic, the cars parked, everything will be dramatically less than when it was a grocery store.

Williams makes a motion to approve a use variance for warehousing in a B-2 zone. Aeling seconds. Roll call vote. All are in agreement. Motion passes.

## **7. Other Business**

Howard mentions there will be a meeting next month.

The meeting adjourned at 6:05 pm.

Respectfully Submitted by:  
Candice Martin  
Engineering Clerk