

# BOARD OF ZONING APPEALS

## Minutes of Meeting

May 17th, 2022

4:30 pm

**Attendance:** Members Mike Aeling, Brent Barnes, Vice Chair , Dave Lundgren, Chairman; Billy Ray; ~~Eddie Williams~~ (absent); Zoning Inspector Shane Howard, Assistant Law Director William Morris, Engineering Clerk Candice Martin

**Meeting held in person in the second floor conference room of the City Administration Building:** The meeting was called to order by Brent Barnes at 4:30 pm. Mike Aeling, Brent Barnes, Billy Ray present. \*\*\*Dave Lundgren arrives at 4:32 p.m.\*\*\*

\*\*\*Barnes reads the Board of Zoning Appeals procedures including appellant recourse\*\*\*

### 1. Minutes from the March 15th, 2022 meeting:

Aeling moves approval. Ray seconds. Roll call vote. All agree. Minutes approved.

### 2. Joshua Williams – 2030 Overcrest St. - - Appeal #22-006 A. Accessory Building 4' x 14' size variance Sec. 1190 Garage, Private B. 2' Height variance Sec. 1130.08 (c)

Shane Howard is sworn in. Zoning Inspector: 504 E. Main St. Alliance, OH 44601. Howard explains this appeal is for a garage. Our zoning allows garages up to 24 x 36. The garage they would like to build will be larger and needs a variance of 4 ft. depth and 14 ft. in length. They will need a 2 ft. height variance as well. 15 ft. is the height that is permitted, and they will be 2 ft. over that.

Lundgren asks about the existing garage.  
Howard replies that it has been torn down.

Lundgren asks if anyone is to speak on behalf of appeal.

Joshua Williams is sworn in. Homeowner: 2030 Overcrest St., Alliance, OH 44601. Mr. Williams explains his plans. Mr. Williams collects cars that he would like to store as well as he would like to store a camper. The camper is the reason that a 14 ft. door is needed. Another reason why he needs the garage to be the size they chose is because they plan on removing the attached garage and creating a new living room. He says that the shed on the property has already been removed. Mr. Williams also brought a diagram of the concrete as requested that shows how the building will be fastened down. It is a steel frame building but not a pole barn. He also brought a picture of a neighbor's garage that is a little larger than what he would like to build. He explains that it is a neighbor opposite him about 5 houses down. (Both pictures are passed around)

Aeling asks if the neighbor's garage is in the township or City.  
Mr. Williams says that he is located on the developed side where there is a border for the street. The neighbor does not have that.

Aeling replies then they are probably in the township so it wouldn't apply.

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

Barnes asks if adjoining neighbors were notified.

Howard explains that zoning looks up all the property owners and sends the notices out.

Aeling moves to grant accessory building variance of 4' x 14' size and a height variance of 2 ft. Barnes seconds. Roll call vote. All agree. Motion carried.

**3. George F. Pilla/ John R. Govern – 615 Waugh St. – Appeal #22-007  
Commercial Use in a R-1 Sec. 1120.03 Land Use Table/ Sec. 1140.04 Nonconforming Uses**

Howard explains that applicant has a residential property being used as commercial offices for Ohio Rack. They have another lot across the alley that they want to use as a new dumpster location, but it is a residential lot. This would be a commercial use on a residential lot. This is expansion of a non-conforming lot. They will need a variance for that reason.

Lundgren says the dumpster location right now is across the street on Liberty from the office building.

Howard explains that is only temporary. They moved it to replace busted concrete but normally it sits in front of their office.

Lundgren asks if there are any plans for shielding.

Howard replies that our City Zoning requires a fenced enclosure around it.

Lundgren asks if anyone is to speak on behalf of appeal.

John Govern is sworn in. Contractor for the owners. Mr. Govern explains that this dumpster does not contain garbage mostly just paper and the reason the owners want to move it is that they don't like the sight of it out front. They have looked at it out there for years. They acquired the lot a couple of years ago. The home had burnt down, and the owner gave them the property. They paid to have the home torn down and filled in. They want to move the dumpster back there, so it is more out of sight. There is a house to the west of the lot. They can plant bushes or something around it to dress it up if need be.

Ray asks about the diagram. Is that the intending diagram of the fence that will go around it?

Mr. Govern replies that there is a drive that comes off the alley, but that little c shape or u shape is the area the dumpster is intended to go. He measured the area; it is 6 ft. wide.

Ray asks if the fencing is going just around the dumpster itself.

Mr. Govern replies yes.

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 states that this solution for the dumpster is better than where it is now or where it was sitting before. As long as they are surrounding it, he doesn't see a problem.

Lundgren remembers this property coming through the board some time ago for an appeal in the past. Lundgren drove by again recently for this and the business is maintained very well. He also mentions on Liberty though it is residential there are multiple uses nearby.

Aeling moves to approve commercial use. Ray seconds. Roll call vote. All agree. Motion carried.

**4. Irving Investments/ Kevin Nisly – 1115 Union Ave. – Appeal #22-008**  
**Building Addition Sec. 1140.04 Nonconforming Uses**

Howard explains this business was granted a variance a couple of years ago for warehousing. They would like to add on to a non-conforming use so it will require a variance. It will also have to go through Planning Commission if this is granted.

Lundgren asks where the addition will be located: in the far back?

Howard replies yes, the east side to the back. Howard also mentions that the owner owns the property to the South.

Aeling asks if we granted him a variance in the past for the building and the adjoining site.

Howard believes that at the time he was talking about putting an entrance off the other property's drive apron.

Aeling says that it looks like we granted a use variance on both parcels.

Lundgren asks if anyone is to speak on behalf of appeal.

Kevin Nisly is sworn in. 1115 Union Ave. Mr. Nisly explains that when he purchased the property it was zoned for body shop use. Mr. Nisly further explains that his business has been doing very well especially the last six months since they have added online sales. This is the part of his business that has taken off the most. They are being limited now only by physical space. They have enough room on the property so rather than move they had the idea to put up a 76 x 40 attachment to the building. The addition will keep a nice clean line with the existing building. It will just hold pallets and become more warehousing. It will not increase traffic or disrupt neighbors. It will just be for dry goods. Mr. Nisly mentions color renderings he has had drawn up. He passes those along to the board members. He also mentions there is spot on the site plan for a potential loading dock at the back of the building. He wanted to ask for this since he is before the BZA even if it turns out to not be cost effective to do.

Ray asks how big the dock will be.

Mr. Nisly replies just the minimum requirement to get pallets off and into the building. He is unsure of the size yet. If he had to guess 6 ft x 18 ft. This would be for a semi. It would be about 3 ft. high.

Howard explains that Mr. Nisly would have to go through Stark County for that since they are commercial.

Lundgren says that the issue of a loading dock would not be a zoning issue.

Ray asks what his future plans may be for the development of that lot. He mentions that part of it is developed to get trucks in and out of there.

Mr. Nisly says he has no definitive plans for development. If in 5 or 10 years his business is to do as well as it is now perhaps there will be another request to build another building. But at this time there are no immediate plans for development.

Barnes asks about a vacant house nearby.

Mr. Nisly says the one to the north is vacant and the one to the south is occupied. Mr. Nisly mentions they have a great relationship with the homeowner.

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

Everyone agrees that they think it looks really good.

Aeling moves to approve building addition variance. Barnes seconds. Roll call vote. All agree. Motion carried.

### **5. Thomas Yankovich/ Ellet Neon Sales & Service - 766 Union Ave. – Appeal #22-009 Pole Sign 2' Variance from Right-of-Way Sec. 1134.06 (e)**

Howard explains that they already have a variance for a pole sign. This was approved however after it was installed, he noticed that it differed from the original drawing. They had the flag facing to the east in the drawing, but the flag is facing to the west installed and they are now too close to the city right-of-way. It is supposed to be 5 ft. They will need a 2 ft. variance for the right-of-way setback. He doesn't see it impeding anything but since it is a pole sign, and there is nothing written in our zoning about it, he felt it had to go before the board. If it were a monument sign, he could have made the determination himself.

Aeling clarifies that the pole is not in the right-of-way, but the sign portion is.

Howard answers correct.

Lundgren asks if anyone is to speak on behalf of appeal.

Tom Yankovich is sworn in. Ellet Sign Company: 3041 E. Waterloo Rd. Akron, OH 44312. Mr. Yankovich explains that what is unusual in this case is that the property owner received the variance. They then asked Ellet sign to install the sign. When they went to install the sign, Mr. Yankovich saw the 3D image presented and it was flagged to the east. Most of the Subway signs flag to the street side. He questioned this and the owner said go ahead and flag it toward the street then. They didn't figure they were in the right-of-way. The sign is installed now, and the configuration is an L-shaped pole sign. It has a 13 ft clearance plus from grade to the bottom of the sign and flags out 6 ft out from the pole. Technically the setback goes from the leading edge of the sign to the right-of-way which is roughly between 2 and 3 ft. The pole is 8 ft from the right-of-way or sidewalk. The spirit of the code based on the section (e) #2 says when you are close to an intersection or a property entrance as long as the vehicles have good clearance or visibility entering and exiting the property or from that intersection that is why they try to impose the setback. The pole is the obstruction because the sign is high enough to see under. Mr. Yankovich believes the spirit of the code is improved by this issue because the pole is set back 8 ft. from the right-of-way instead of 5 ft. like originally intended. Yes, the leading edge is closer but the obstructive part of the sign which is the pole is further back which improves the visibility at that intersection at that corner. They are asking for about a 3 ft. setback variance because the cabinet or leading edge of the sign is closer to the right-of-way than it was intended.

Lundgren clarifies that they want permission to leave the sign the way it is.

Mr. Yankovich answers as it is.

Ray comments that the pole is not even centered in the curved area. It is graded toward the road still.

Mr. Yankovich explains that the setback was supposed to be 5 ft. so the pole would have been further toward the road and not centered in that spot and flagged to the east. What they did was to center in the landscaped area and flagged toward the street. The intention was to setback the pole 5ft from the right-of way.

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

Barnes comments that this variance must have been before he was on the board.  
Howard replies yes it was approved at the March 16, 2021 meeting.

Barnes asks if we allowed them to move the pole.  
Howard says the original one was torn down.  
Aeling explains we granted them a variance to put it back up.

Ray further explains that the way the lot sits a monument sign wouldn't have worked there.

Lundgren says a pole sign there allows for more visibility.

Ray says his issue is that they were granted a variance for the sign and they made the decision to turn the sign around knowing they had a variance.  
Barnes agrees. They created the hardship voluntarily.

Ray says they could have turned it or moved it back.

Aeling says however he feels they are up high enough it is not posing a problem  
Lundgren agrees.

Aeling moves to approve the 2 ft. variance. Barnes seconds. Roll call vote. All agree. Motion carried.

### **6. Other Business**

Ray asks about Sarchione's and said that he has been noticing larger vehicles are now lined up and parked there.

Howard asks if he is referring to the lot across the street at the old McKinney's site? He states they have a conditional use for storage of vehicles but not sales and display. Planning Commission granted that. The BZA granted the variances for the locations for them to sit.

Lundgren notes that would not apply to us.

No other business

Meeting adjourned at 5:14 pm.

Respectfully Submitted by:  
Candice Martin  
Engineering Clerk