

BOARD OF ZONING APPEALS

Minutes of Meeting

May 18th, 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 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 were present.

Virtual Kiosk:

No one attended.

1. Minutes from the May 4th, 2021 meeting (Rescheduled from April 20th, 2021):

Aeling makes the motion to approve the minutes with Ray seconding. Williams abstains due to his absence from the May 4th meeting. Lundgren, Aeling, and Ray are in agreement. Minutes approved.

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

2. James Patrick – 1317 S. Rockhill Ave -- Appeal #21-002 (Tabled from January 19, 2021)

Shipping Container in an R-1 for Accessory Building. Sec.1130.08 (c)

Shane Howard is sworn in: Zoning Inspector, 504 E. Main St. Alliance, OH 44601. Howard explains that this appeal was tabled pending Mr. Patrick supplying an engineered sketch or rendering of what the container will look like when completed. Mr. Patrick was in contact with an architect but was behind and as of today he had not received any renderings of the container.

Aeling asks Howard to clarify if we requested a completed set or just what the building is going to look like.

Howard responds that for Mr. Patrick to obtain a building permit they will need to be a stamped set of drawings.

Aeling asks if we just wanted a preliminary to make a decision on it.

Howard replies that he will need to look up the minutes and see exactly what was stated in that meeting. (He looks up minutes from the January 19th Meeting)

Howard reads minutes: "...come back with more specific plans in 30 days." "He may not be able to come up with engineered drawings by then, but he may be able to talk to an Engineer to see what is involved and come up with a better proposal." "...Agrees with board that giving a vague approval now will be difficult to enforce later."

Howard sums up that he needed to come back with more specific plans.

Aeling questions as opposed to the generalized idea that we had: a sort of preliminary idea.

Howard responds yes.

Lundgren confirms with Howard that Howard does not have anything in his possession of a generalized plan.

Howard responds no he does not.

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

Mr. Patrick is sworn in. Home Owner: 1317 Rockhill Ave. Alliance, OH. Mr. Patrick explains that he did get drawings but they were not professionally stamped. He received them on the 6th but he did not ask them to stamp them for a couple of reasons. He can forward the email if needed. When he evaluated it and looked at the cost of shelling the box right now material costs are extremely high and it's not something that he can come up with right now. The drawings are there. He would have had them earlier if it was just supposed to be a preliminary but he has been waiting for a stamped set. When he was sent those it was too late to ask the person to stamp them and material costs are extremely high. The best thing he can do right now is paint it. He stands by the original meeting and feels he has not violated any ordinances. He believes he is no different than the person down the road with a shed. His just happens to be a lot stronger and looks different. He says that is where he stands today on this issue.

Ray asks Mr. Patrick about the pay load or loaded figures on the side of the container.

Mr. Patrick says he has a picture of that stamp. He looks at the picture and says he has a max gross, tare, net, cubic capacity and asks which value Mr. Ray would like.

Ray says the gross value that it can contain pertaining to weight.
Mr. Patrick responds 71,650.

Ray asks if there is a shear value such as 275,000 tons or something like that.
Mr. Patrick says he doesn't see anything like that.

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 asks if we are questioning the structural ability of the building, the description of the building, or the materials that it is made of or are we questioning the setting of the building of this type of container being used as an accessory building.

Howard asks if the question is why it is requiring an engineered stamped set of drawings or the reason why it is not a permitted use in the City.

Ray clarifies by saying he wants the reason why it is not a permitted use in the City.

Howard responds that it is not permitted therefore it is prohibited. He asks Mr. Morris to further explain.

Mr. Morris explains that there are permitted uses in an R-1 Zone and a storage container is not one of them. If Mr. Patrick wants to convert this container into a building that would require a number of things such as an engineered set of drawings etc. and a different look that would satisfy Zoning. This is a storage container not a building. Mr. Patrick has applied to the Board suggesting that it could be an accessory building. If the Board says that he can convert it into a building then that is within their power to do so. At the January meeting it was suggested that it would entail specific engineered drawings. Mr. Morris asks Mr. Patrick if he had said that siding was going on the building.

Mr. Patrick responds yes he did.

Mr. Morris said that the Board can act or put the matter back on the table but there does need to be an end sometime though. If the Board denies it, then that sets up Mr. Patrick a 2506 appeal which is his right.

Lundgren says if it is not specifically permitted then it is prohibited. If Mr. Patrick were to convert it into something that is permitted to the satisfaction of the Board that is what we have been waiting these four months for. It wouldn't be a storage box at that point; it would be a building that would be permitted under the code.

Aeling says that, as he understands, it would then be someone else's responsibility to either deny or approve the building plans. Aeling further says the Board is just approving or denying based on what we see right now.

Lundgren agrees.

Williams states that he is looking over section 1130.08 which is what is noted on the application. What he is trying to distinguish is what defines an accessory building as an accessory building. Section 1130.08 talks about where it should be placed, the height, the size limitations, building before the principle etc. Nowhere does he see a definition of what an accessory building is or isn't.

Howard replies that it is in the name. It is a shipping container not a building.

Aeling states that is the way he understands it. It is not a building until it is converted into a building. Right now it is just a shipping container.

Lundgren adds that is why the plans/drawings and how it would be converted into a building are needed. It's not a building it's a shipping container. It could be made into a building, but it would have to go to the building department for approval of the plans and specifications. We could approve the theoretical issue, but at this point there is no theoretical issue to approve. It is still just a container.

Mr. Patrick states that a storage shed is not called an accessory building it is called a storage shed. He studied the ordinances and there was nothing wrong, and he put it in with the intention of making it nicer and six months later they are still talking about it because of the name. He further states that he would rather have a shipping container because if a tree or something falls on it, it will stay up a lot longer than a shed will.

Lundgren notes that he has a valid point. But asks if it is just about a name differential or is there something significantly different from a shipping container to a building. He believes that is open to the Board's interpretation. He believes there is a difference.

Aeling feels that it is still a shipping container and not a building. All they asked for was preliminary drawings. He doesn't know how the applicant would be held to getting it done. If structural work is done that would fall under someone else to approve and not under Zoning. At face value it is not allowed and what he is asking for is a shipping container to be allowed in an R-1.

Williams asks Howard if drawings are required for sheds.

Howard replies no. A site plan is required for the setbacks for a prefab skid shed and a Zoning application. A building over 200 sq. ft. requires a building permit along with a Zoning application.

Williams infers that if a shed is under 200 sq. ft. then it doesn't require anything from the building department. He then asks what the size of the storage container is and if it is over 200 sq. ft.

Mr. Howard replies that it is 40 x 9.

Williams states that it is 360 sq. ft. This therefore requires Zoning approval and Building department approval.

Howard says yes that is the reason for the engineered stamped drawings because it is non-conventional framing. He knows nothing about the integrity of a shipping container and it is not covered under the residential building code.

Williams asks if theoretically he had a steel cube fabricated and it was less than 200 sq. ft. and he calls it a shed could he then set it on his property as long as it met all the requirements. It wouldn't be a shipping container but it wouldn't be a wood shed either.

Howard says that if an application is filled out calling it a storage shed and upon arrival it is not a shed then one would be in violation because they said they were putting a shed in.

Mr. Patrick asks what defines a shed. He believes a shed is where one stores items and it can be made of all kinds of different materials. He can get a 10 x 20 shipping container and be outside of that 'requirement' but since it has a "shipping container" name it falls back under a different scope. It's a name thing.

Aeling makes the motion to deny the appeal. Lundgren seconds. Roll call vote. Aeling yes. Lundgren yes. Ray no. Williams no. Split decision 2:2. Decision to deny stands based on Howard's original determination. (See below for explanation.)

Howard reads, "...A concurring vote of three members of the board shall be necessary to reverse an order, requirement, decision or determination by the administrative official or body or to decide in favor of the appellant in any matter upon which they are required to pass under or to affect any variation in the ordinance adopted pursuant to the revised code."

Lundgren states that three members are required then to overturn Mr. Howard's decision and his decision was to deny the application. Three members did not approve to overturn the decision therefore the decision to deny stands.

Lundgren asks Mr. Morris if that is the case.

Mr. Morris replies that is correct. He replies that in regards to the question of whether the motion failed with a 2:2 vote the answer is yes.

Lundgren says that he believes that was not the right question to ask. To overturn the decision three votes are needed: a majority.

Lundgren asks Mr. Morris if where we are now is acceptable. It does not overturn the Zoning official's decision.

Mr. Morris says yes. It will become official when the minutes are approved next month or whenever the next meeting takes place. Mr. Patrick will then have 30 days to appeal the decision: a 2506 appeal. The clock will not start running until the minutes are approved. This is because someone voting could ask for a reconsideration of the vote and it could be reversed.

3. David Fletcher – 50 E. Main St. – Appeal #21-016
Tattoo Parlor in a B-1 Sec.1122 Land Use Table

Howard explains this appeal is for 50 E. Main St. The applicant wants to put a tattoo parlor in a B-1 Zone which is not a permitted use in that area. For this reason they require a use variance.

Aeling asks if there has been a tattoo parlor in that building before.

Howard replies yes in years past. He is unsure if it was that unit but it was in that building.

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

David Fletcher is sworn in. 56 E. Summit St. Alliance, OH 44601. Mr. Fletcher explains that he has been a tattoo artist for 13 years. He has tried to open one up a couple times in Alliance and he has been in the wrong Zoning area. He knew that this building had been a tattoo shop in the past. He has a large clientele and is looking to do well.

Lundgren asks if he has a shop now.

Mr. Fletcher answers no.

Lundgren asks how many potential customers a day may use his services.

Mr. Fletcher responds at least five people per day per artist is his goal. This will be by an appointment only business.

Lundgren asks if he needs to get approval through the Health Department.

Mr. Fletcher says yes. They will need to come in and make sure it is sanitized. He needs a restroom and sinks to wash his hands.

Ray asks where his clients will park.

Mr. Fletcher replies that there are four parking spots in front of his building specifically for his building. He doesn't see parking being an issue.

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 asks if we had just approved another tattoo parlor for E. Main St. a few months ago.

Lundgren responds yes. The Williamsburg Press building was approved at the meeting two weeks ago. This sounds almost identical.

Ray asks if this violates the one thousand feet rule.

Howard replies that Zoning has changed. It is now 500 feet and they are 580 to 600 feet away from one another. All their limitations, such as having to be away from childcare etc. are met.

Williams asked if Feed My Sheep Christian Ministry has childcare.

Howard replies no they do not.

Aeling makes motion to allow tattoo parlor in a B-1. Williams seconds. Roll call vote. All in favor. Motion passes.

5. Other Business

Howard mentions June 2nd and that the Governor's orders are running out for the way to conduct meetings. He said right now Council is trying to decide what to do. We don't have the amount of people that a Council meeting has. They are thinking it would be fine to have it back upstairs in the conference room here.

Lundgren says it has been in that conference room for the last 30 years or more. On an extraordinarily rare basis has there ever been an overflow problem. Generally there is the applicant, a neighbor or two, and 2 or three

proposals. If we have 5 or 6 that is a pretty good size crowd. He only remembers a handful of times when we ever overflowed that location.

Howard says he will get the rest of the details when he finds out from the Mayor how the meetings are to be conducted.

Lundgren asks Howard if at this point we still do not have a meeting in June.

Howard says he has not received anything yet. It is still possible we may have one but nothing has come in.

Howard said that with costs being what they are right now he has seen the brakes hit on projects. No one is doing much of anything. He thinks with lumber being on the news he doesn't think the general public realized the price increase on lumber. Now that they know everything has stopped.

Williams makes motion to adjourn. Aeling Seconds. Roll call vote. Motion passes. The meeting adjourned at 5:20pm.

Respectfully Submitted by:
Candice Martin
Engineering Clerk