

**MINUTES  
BOARD OF BUILDING AND ZONING APPEALS**

**April 3, 2014**

**MEMBERS PRESENT:** Pat Zoller, Doug MacMillan, Lukas Gaffey, Tate Emerson and Adrian Eriksen

**MEMBERS ABSENT:** Ken Suchan and Gregg McIlvaine

**STAFF PRESENT:** Andrew Dutton and Jonathan Millea

**I. MINUTES**

Doug MacMillan moved, Pat Zoller seconded, to approve the Minutes of the March 6, 2014 meeting as received. Motion carried by a 5-0 vote.

**II. PUBLIC HEARINGS**

**Appeal #2014-05. Jim Briola of North Coast Sign and Lighting Services Inc.**, representing SCP 2003D 51 (CVS Caremark), requesting an area variance from Planning and Zoning Code Section 1171.04(a) to allow building signs larger than permitted in an C-5 (General Commercial) District at 2284 Back Orrville Road.

Jim Briola, North Coast Sign and Lighting, stated LED signage was proposed to replace the existing channel lettering on the building (signs #1 and #2). Mr. Briola stated at the time the signage was placed on the CVS building (2003), the existing signs met the Sign Code regulations but did not meet the Sign Code regulations currently in place. Mr. Briola stated the existing signs would not be removed but the neon would be removed and replaced with new sign LED faces.

Mr. Briola stated CVS had a new minute clinic service, and in order to advertise the new service, CVS wished to place two new, 31" x 43" minute clinic hanging signs in the windows (front and side). CVS also wished to change the two existing CVS pharmacy signs with one which would read "Drive-Thru Pharmacy" and would be 18" x 16' 10". The background with be grey with red acrylic letters.

Mr. Briola stated existing building mounted signs #9, #10, #11, #12 and #13 would be replaced with three signs reading "Drive-Thru Pharmacy, Photo, and minute clinic". Mr. Emerson questioned if the signs would be larger. Mr. Briola stated there would only be four signs (two minute clinic/one on each building side, one Drive-Thru Pharmacy and one Photo) as opposed to the five which currently existed. Mr. Emerson questioned if the letter height would be the same from what existed to what was proposed. Mr. Briola stated yes—both the letter height and the panel height would be the same as what existed currently.

Mr. Emerson questioned if there was existing lettering on the awnings/canopies. Mr. Briola stated yes.

Mr. Briola stated sign #14 listed three items and was proposed to only read "Drive-Thru Pharmacy"; sign #15 would only read "Drive-Thru Pharmacy"; sign #16 would read "Exit". Mr. Emerson questioned if the panel size would be the same. Mr. Briola stated yes—both the panel size and lettering would be the same.

Mr. Emerson noted that sign #3, #4, #5, #6, #7 and #8 were new canopies with lettering. Mr. Briola stated that was correct but noted that there would be less, more compact lettering with the new canopies.

Mr. Emerson questioned the flat signs which currently existed on the side of the building. Mr. Briola noted those signs would remain and were unchanged. Mr. Briola stated full service would now be available in both lanes, and a new sign was proposed which would be a flat, aluminum sign with vinyl graphics added to the drive-thru canopy pillar.

Mr. Emerson noted there would also be a new cabinet face on the monument sign. Mr. Briola stated that was correct. Mr. Briola noted that the existing "Drive-Thru Pharmacy" sign on the existing monument sign would be replaced with "minute clinic" on both sides; the size would be unchanged and would not be illuminated.

Mr. Emerson stated from a square footage standpoint, it appeared as though there were two additional signs proposed which were the two window signs. Mr. Briola stated that was correct.

Mr. Briola stated temporary signs were proposed to be erected 30 days prior to the clinic opening and would be removed the day it opened. The temporary signs would be double sided, non-illuminated, and would read "minute clinic coming soon".

Mr. Eriksen questioned from which road the most traffic was generated. Mr. Briola stated he was not familiar with the area and could not answer. Mr. Eriksen questioned whether the "minute clinic" signs along Akron Road were necessary. Mr. Briola stated the building was set back a good distance off the street; there was also a large landscaped area in addition to the parking lot. Mr. Briola noted there was not a lot of visibility and the window signs were small.

Mr. Emerson stated CVS had an opportunity to bring its current signage to within the existing Sign Code regulations, but the proposal only maintained the current sign square footage. Mr. MacMillan stated the signage was almost double what the Sign Code would currently allow. Mr. Briola stated when the signs were initially installed, they met the Code regulations at that time, but indicated the Sign Code had since changed.

Mr. Briola stated as far as the channel letters were concerned, the Code only provided for their replacement due to "general maintenance". Mr. Emerson stated he would see that replacing the faces would be "general maintenance", but replacing the illumination, he felt, was a gray area. Mr. Emerson stated he felt there was a lot of signage on the building.

Mr. Emerson noted that on the area variance criteria worksheet, one item was checked which noted, "This situation cannot be solved through some method other than a variance". Mr. Emerson stated CVS could upgrade the channel letter signs and then reduce the other signage in order to comply with the Code. Mr. Gaffey agreed. Mr. Gaffey stated at the present time, signage was 433-sq. ft.; after the upgrades, the square footage would be 391-sq. ft. Mr. Emerson stated if the lettering were removed from the canopies, that would reduce the square footage even further.

Mr. Briola stated he would need to talk with CVS to see what signs they could possibly eliminate or reduce in size.

Doug MacMillan moved, Lukas Gaffey seconded, to table the appeal, at the request of the applicant, for CVS Caremark for an area variance 2284 Back Orrville Road. The Board moved to table the request to its May meeting.

Motion carried by a 5-0 vote.

**Appeal #2014-06. Patrick Teague of the Hartley Company** requesting an area variance from Planning and Zoning Code Sections 1147.07 and 1147.09(c) to locate a gas station on a lot of less than 2 acres, with less than 150' of frontage and with more than one access drive per street frontage, and Section 1171.04 to allow building signage larger than permitted and freestanding signage larger and taller than permitted at 310 South Market Street in a C-4 (Central Business) District.

Patrick Teague, the Hartley Company, stated the Hartley Company had been in the gas business since 1912 and was family owned and operated. Mr. Teague stated he was the manager of 28 of the dealer stores; the Hartley Company owned 56 stations including Gulf and Shell. Mr. Teague stated the site was previously a BP Station, and the proposal was to operate a Gulf Station from the property in question. Mr. Teague stated the station had been closed for over a year and, because of that, the signage and use needed to be approved by the Board. Mr. Teague stated the sizes of the existing signs would not change but the site would be re-branded as a Gulf Station. Mr. Teague stated the smaller portion of the canopy faced South Market Street, and signage was determined based on that. Mr. Teague stated the Bell Store station (in the immediate area) oriented the largest portion of its canopy to South Market Street, and signage existed on nearly 1/3 of its canopy.

Mr. Teague stated a small sign was proposed on the building itself in addition to the ones that were proposed on the canopy and pumps.

Mr. Teague stated with respect to the price sign at the street, the sign proposed would be LED and would provide less of an obstruction. Mr. Teague stated the Bell Store's freestanding sign was the same size.

Mr. Teague stated the proposed changes would be an improvement to the area and downtown. Mr. Teague stated they would not be changing the size or shapes of the signs; it was basically just a replacement of what existed previously.

Mr. MacMillan stated the only sign which was proposed to be added was #12. Mr. Teague stated that was correct.

Mr. Teague stated the manager of the station was aware that any window signage would need approval from the Board.

Mr. Emerson questioned if they had looked into a proposal to comply with the sign regulations. Mr. Teague stated no. Mr. Teague stated Gulf had a certain way they wanted to brand a station, and their marketing team felt the proposal was what was needed in order to be successful.

Ms. Zoller questioned the amount of signage which would be permitted and how much was proposed. Mr. Dutton stated as for the canopy, the Code allowed for 70-sq. ft. of signage; the applicant was proposing 211-sq. ft. of signage. Mr. Dutton noted that the "cloud" area was

included in the calculation toward signage. As for the freestanding sign, Mr. Dutton stated the Code permitted 30-sq. ft. of signage; the applicant was proposing 62-sq. ft.

Mr. Teague questioned if the Board felt the sky had to be included as part of the signs. Mr. Teague further noted that the Bell Store signage on South Market was “fairly comparable”, but the difference was that the Gulf Station canopy was oriented opposite of the Bell Store’s which limited signage and what was permitted for the Gulf Station.

Mr. Emerson stated the canopy sign, including the clouds, was 211-sq. ft.; not including the clouds, the sign would be 131-sq. ft. The Code permitted the canopy sign to be 70-sq. ft. in size, so even without the clouds, the signage was “substantially over” the Code.

Mr. MacMillan questioned how long the gas station had been out of operation. Mr. Teague stated a little over 4 years. Mr. MacMillan questioned if they owned the lot “next door”. Mr. Teague stated yes—they owned the barn, the station and the grass lot next to it. Mr. Teague noted the Hartley Company owned three stations in the Wooster area.

Mr. Teague stated they were not trying to expand or grow but rather were trying to get the business back up in operation and be a part of the downtown revitalization of Wooster. Mr. Teague stated the freestanding sign as it existed currently was being vandalized. Mr. Emerson questioned if any improvements would be made to the building itself. Mr. Teague stated the building would be cleaned and brought up to Code.

Mr. MacMillan noted that signage for the Bell Store would have to comply with the signage regulations by year 2022 (according to the current Zoning Code regulations).

Mr. Emerson questioned if the pricing area was considered part of the signage. Mr. Dutton stated yes.

Mr. Emerson stated the primary building frontage allowed for 95-sq. ft.; the applicant was proposing 22-sq. ft. The service canopy was where signage was exceeded. Mr. Teague reiterated that was due to the orientation of the canopy. Mr. Emerson questioned if the orientation were changed, if the canopy would be in compliance. Mr. Dutton stated if the canopy were rotated 90°, approximately 112-sq. ft. of signage would be permitted.

Mr. MacMillan questioned if #5 was considered signage. Mr. Dutton stated no. Mr. Dutton further stated sign #5, #6, #7 and #8 were not considered in the signage calculations. Mr. Emerson questioned if sign #9, #10 and #11 were included. Mr. Dutton stated #9 was, #10 was not and #11 was included.

Mr. Teague stated the Hartley Company would not be opposed to dating approval of the variance to the year of when the Bell Store’s signage was brought into compliance so that the sites were comparable. Mr. MacMillan stated he was more agreeable to the time limit. Mr. Emerson stated Zoning Code Section 1171.01(d) states, “All non-conforming signs shall be brought into compliance with the current Planning and Zoning Code no later than June 21, 2022”.

Mr. Emerson questioned how long they have owned the property. Mr. Teague stated 13 years. Mr. Emerson questioned if the property was in compliance when the Hartley Company purchased the property. Mr. Dutton stated up until 2007, the Sign Code was part of the Building Code, so he was not sure if the signage complied.

Doug MacMillan moved to grant the request for an area variance from Planning and Zoning Code Sections 1147.07 and 1147.09(c) to locate a gas station on a lot of less than 2 acres, with less than 150' of frontage and with more than one access drive per street frontage at 310 South Market Street in a C-4 (Central Business) District.

Mr. MacMillan stated to change the property to another use would be very expensive and unlikely. Mr. MacMillan stated by granting the variance, the building would not deteriorate further. Mr. MacMillan stated he felt that because the use had existed previously, a precedent was not being set.

Lukas Gaffey seconded the motion.

Pat Zoller voted yes. She stated she felt it was the best way to use the property.

Doug MacMillan voted yes. He stated he was concerned if the variance were not granted, it would become a bigger eyesore.

Adrian Eriksen voted yes and agreed with the Ms. Zoller.

Lukas Gaffey voted yes, agreeing with the comments made by other Board members.

Tate Emerson voted yes.

Motion carried by a 5-0 vote.

Mr. Emerson stated by reducing the size on the canopy, signage would come more into conformance. Mr. Emerson stated the freestanding sign would have to be reduced in height and sign area to comply.

Mr. Teague stated he was in agreement with coming into compliance in 2022 should the Board grant the variance, especially if the Bell Store gas station was made to come into compliance as well.

Mr. Emerson stated in order to be competitive, you did not necessarily have to be as loud or louder than your competition. Mr. Emerson stated a smaller, freestanding sign which would be more subtle may accomplish the same thing.

Mr. Gaffey stated the canopy signage, compared to what existed currently, was what he felt "skewed" the numbers. Mr. Gaffey stated from a branding standpoint and given the freestanding sign, he felt Gulf should reconsider some of the logo sizing.

Mr. Emerson stated one of the things the Board looked for was that the variance was the minimum necessary to accommodate the Code. Mr. Emerson stated if the canopy were changed to follow more what the BP Station had done with keeping the logo small and bring the canopy into compliance, then the only variance which would be needed would be on the freestanding sign. Mr. Emerson stated he did not find the proposal before the Board to be the minimum necessary to meet the Code.

Tate Emerson moved, Pat Zoller seconded, to grant the request of the Hartley Company for approval of an area variance from Section 1171.04 to allow building signage larger than permitted

and freestanding signage larger and taller than permitted at 310 South Market Street in a C-4 (Central Business) District, subject to the variance being granted until June 21, 2022.

Adrian Eriksen voted no. Mr. Eriksen stated he felt there was no reason why the minimum should not be met.

Lukas Gaffey voted yes. Mr. Gaffey stated he was voting yes because they were reusing the existing signage and just changing brands. Mr. Gaffey stated he further voted yes since the signs would have to be brought into compliance in 2022.

Pat Zoller voted yes because of the condition of the signs being brought into compliance in 2022.

Doug MacMillan voted yes and stated he felt it was important that in 2022, the signs would be brought into the same standards that everyone else would have to meet.

Tate Emerson voted no. Mr. Emerson stated he felt there could have been a little more done to come closer to the Code.

Motion failed due to lack of majority by a 3-2 vote, Adrian Eriksen and Tate Emerson voting negatively.

**Appeal #2014-07. Jonathan Millea representing the City of Wooster** is requesting an area variance from Planning and Zoning Code Section 1147.09(t) to allow a public parking lot with a setback of less than 10' from a public right-of-way and without the required masonry wall, and Section 1169.15(b) to allow a parking lot without a hard surface in an C-4 (Central Business) District at 331 - 341 East North Street.

Jonathan Millea, City of Wooster, stated the City had been working on a parking lot project the last couple of years. Mr. Millea stated as part of the City's revitalization efforts in the downtown, it was trying to take underutilized properties and provide opportunities for expansion. Mr. Millea stated a parking exemption district was created which ended at Bever Street. The parking lot in question was in an area which was partially being used for graveled parking, partially an open lot, and partially as a community garden. Mr. Millea stated the parking lot area itself was originally sought because the current parking exemption district did not extend into this area along East Liberty Street. Mr. Millea stated a public parking lot was proposed so that the City could be justified in expanding its parking exemption district and create additional development opportunities for properties along East Liberty Street. Mr. Millea stated the lots were acquired through CDBG funds (Community Development Block Grant) which the City obtained in 2012. Mr. Millea noted that initially, the City had plans to acquire additional properties that would alleviate some of the variances being requested, but after negotiations, the City was only able to acquire the properties now before the Board. Mr. Millea stated the Planning Commission granted conditional use and development plan approval of the parking lot as proposed, but indicated three variances were needed. Mr. Millea stated a 1' setback variance was needed along the front yard landscaping. Mr. Millea stated the City had funding through the Grant to provide gravel on the proposed parking lot. Mr. Millea noted that there was already a parking area (partial) which existed and was currently gravel. Mr. Millea stated a variance was being requested to provide gravel on the proposed parking area. Mr. Millea stated in the Zoning Code, a 4' high knee wall of masonry materials was required but that the City did not have funding to provide that through the Grant. Mr. Millea stated in lieu of the knee wall, berm landscaping with a 3' hedge row was proposed which was similar to what existed in the area. Mr. Millea stated the City had until the end of June

to use the funds it had for gravel and landscaping. Mr. Millea stated as part of the Grant requirements, the City was also required to maintain the community garden until September. Mr. Millea stated the gravel would provide a base coat for what would hopefully become a paved lot down the road when additional funding was available. Mr. Millea stated the landscaping would define the parking lot.

Mr. Millea stated the lots were currently a mix of gravel and dirt parking, an open lawn and community gardens. Mr. Millea stated there were issues of blight and noted that the three homes that previously existed on the lots were demolished. Mr. Millea stated the lots in question, in total, comprised approximately  $\frac{1}{4}$  acre. Mr. Millea stated the Planning Commission granted conditional use approval of the parking lot, with the condition that the variances in question be obtained from the Board. Mr. Millea stated this provided the City an opportunity to make an active use of the land which would help spur development of neighboring properties in the district. Mr. Millea stated the proposed development would help improve the appearance of the area by the addition of vegetation, landscaping, trees, hedge rows and by providing an active use of the site which would help support surrounding businesses which would be a strong benefit to the immediate area in terms of appearance, aesthetics and use. Mr. Millea stated that with the addition of the parking area, the City would be expanding the public service that the City was accustomed to providing and would also take into account considerations for stormwater. Mr. Millea stated the necessity of the parking lot was due in part to its proximity to the properties the City was looking to provide redevelopment opportunities to given the success of the downtown with new business development.

Mr. Millea stated with regard to the 9' setback from the sidewalk area (10' required), the only solution would be to obtain additional property. Mr. Millea stated the City had tried in good faith and approached adjacent owners, but that adjacent property owners were not in a position to sell due to a variety of circumstances. Mr. Millea stated the City was providing an essential use to the supporting of services that the zoning district was designated for and would promote both residential and commercial activity in the area.

Mr. Millea again noted that nearby properties were similar and consisted of gravel lots. Mr. Millea stated the proposal before the Board, however, did provide for landscaping and a hedge row to provide a barrier to the parking area and was a huge improvement to what was existing and to immediate, neighboring properties. Mr. Millea stated the proposed parking lot was not unlike many which existed in the downtown and indicated very few had the landscaping elements which were proposed. Mr. Millea stated he felt the City was proposing a good plan with the limited funding and space which was available.

Mr. MacMillan questioned if the City would continue to look for funding in order to pave the lot. Mr. Millea stated yes. Mr. Millea stated the proposed gravel would provide a base coat and would save costs in the future when the lot was paved.

Mr. Emerson questioned if the City had funds to complete all of the gravel. Mr. Millea stated yes, but noted that as soon as the City was able to have access to the portion to be used for community gardens, gravel would be added to the remainder of the lot. Mr. Millea noted that in that particular area, the landscaping elements would be added before the gravel was placed. Mr. Emerson questioned what would be under the hedge rows. Mr. Millea stated a mound would be installed and would be separated from the gravel. Mr. Emerson questioned if concrete curbing would be added to separate the landscaping from the gravel or sidewalk. Mr. Millea stated not at this time, but possibly at the time asphalt was added.

Mr. Eriksen questioned if the City had received any inquiries from adjacent properties. Mr. Dutton stated no, other than questions about what was being proposed on the land.

Mr. Emerson questioned the expansion of the parking district in the downtown. Mr. Millea stated the City was hoping to expand the district yet this year. Mr. Emerson questioned if the exemption area was only for parking. Mr. Millea stated it was for parking only (Downtown Parking Exemption District) and was referenced in the parking code. Mr. Emerson questioned how far they would expand the district. Mr. Millea stated it was likely it could at least be extended to Beall Avenue but that ultimately, he felt it would be good to extend it to encompass the entire C-4 District going east, and ideally to the west as well. Mr. Millea stated City Council had the final approval as to the area of the exemption district and what properties that would include.

Adrian Eriksen moved, Doug MacMillan seconded, to adjourn to Executive Session. Motion carried by a 5-0 vote.

Doug MacMillan moved, Pat Zoller seconded, to come out of Executive Session. Motion carried by a 5-0 vote.

Mr. Emerson stated the Board was concerned with taking a spot which was more green than it was anything else and turn it into a parking lot when, as of right now, no one would be parking there. Mr. Emerson stated the Board was also concerned with the City adopting a Code and then did not abide by it.

Mr. Millea stated parking was a conditional use in the C-4 District, and the site was an area which had been underutilized. Mr. Millea stated the proposed parking would fill a need which existed in the area. Mr. Millea stated three homes had been demolished on the property, and the present use was not at the highest and best use for real estate purposes. Mr. Millea stated the property was already partially being used for parking. Mr. Millea stated by the addition of landscaping, it would help to promote development and a sense of greenery in the area. Mr. Millea stated because of how the grant was written and the monies which were available (\$22,000), the plan as proposed could be accomplished with those funds under the restrictions of the Grant. Mr. Millea stated Wooster City Council, in December, 2013 approved the use of the funds for this expressed purpose because that was the need which was identified for the area. Mr. Millea stated the Grant will expire, and there was no other way to reallocate the funding.

Mr. Emerson questioned if there was any communication from the City with the parties who ran the community garden. Mr. Millea stated no. He stated it was his understanding the community garden was on a "year to year basis", and noted that in 2013, there had not been a significant use of the area for the community garden.

Mr. Dutton reiterated the variance request which was for a 1' setback reduction which amounted to about 100-sq. ft. of greenspace reduction (which was about ½ of a parking space), to eliminate a knee wall and, in its place, add a hedge row, and the third variance was for the use of gravel instead of a paved surface. Mr. Dutton noted that a park was not a permitted use in the C-4 District, so he did not feel the City had any requirement to keep the land as a park. Mr. Dutton stated he did not feel the use of the property should be taken into consideration as the use had been approved by the Planning Commission.

Mr. Millea noted the Grant was to have expired already, but the City was able to secure an amendment.

Lukas Gaffey moved, Doug MacMillan seconded, to grant the request of the City of Wooster at 331 – 341 East North Street as presented.

Adrian Eriksen voted no. Mr. Eriksen stated he did not feel the criteria was met. Mr. Eriksen stated his biggest problem was with the setback not being met since the adjacent parking lot did not meet the setback.

Lukas Gaffey voted yes. Mr. Gaffey stated the Board had looked at similar appeals previously.

Pat Zoller voted yes. Ms. Zoller stated the parking lot was a good idea and that the request was the minimum necessary to make possible the reasonable use of the land.

Doug MacMillan voted yes. Mr. MacMillan stated the three variances were minor and ones the Board had approved in other places.

Tate Emerson voted yes. Mr. Emerson stated using the gravel surface did not bother him as he felt it was better than using a hard surface. Mr. Emerson stated he did not have a problem with the variance for the knee wall for similar reasons. Mr. Emerson stated he felt a 1' variance was the minimum necessary.

Motion carried by a 4-1 vote, Adrian Eriksen voting negatively.

**Appeal #2014-08. Matthew Long of Critchfield, Critchfield and Johnston, Ltd.**, representing Gebcon Properties, Ltd., requesting an area variance from Planning and Zoning Code Section 1135.04(d) to allow a building and parking within the required setbacks and to allow buildings closer together than required in an R-4 (Multi-Family Residential) District at 1141 Mindy Lane.

Matthew Long, Critchfield Law Firm, attorney/agent for Gebcon Properties, Ltd., and Chris Conwill of Gebcon Properties, were present. Mr. Long stated the property in question was a property which was subdivided prior to the current Zoning Code and was located along Mindy Lane. Mr. Long stated the lot in question was the remaining building site along Mindy Lane which had not been developed. Mr. Long stated when the lot was subdivided, it was compliant with the Code. All of the adjacent structures to the land were built under the Code at that time and were substantially similar to the plan being proposed. Mr. Long stated the lot, as previously subdivided, contemplated a completely set of different requirements than the current Code which led to a practical difficulty in how to develop the lot. Mr. Long stated in the R-4 District, buffering from unit to unit was not a high priority as opposed to the contemplated part of the Code which was to buffer large residential developments from other uses and other districts and other large, residential structures.

Mr. Long stated two variances which were part of the application were determined by the City to, in fact, not be needed.

Mr. Long stated the narrowness of the lot was a condition which existed at the time the lot was purchased. Mr. Long stated multi-family development of the lot was in direct competition with the narrowness of the lot. Mr. Long stated it would be difficult to find another method to maximize the economic value in the R-4 District as it was not one which was appropriate for

single family, residential housing. Mr. Long stated there was no negative impact on any of the provisions of services. The essential character of the neighborhood was substantially similar and noted adjacent properties were previously developed with multi-family structures with identical setbacks as contemplated in the proposal before the Board. Mr. Long stated the applicant owned land to the north and to the west of the subject property, so the property in question was in common control and fit into a larger scheme of development for the area. Mr. Long stated this was not a special privilege being requested by the applicant but was one that had been regularly afforded to other applicants who came before the Board and was the minimum necessary in order to permit development of residential structures which were otherwise in compliance with the Code.

Mr. Long stated the adjacent structures contained more units and that the planned density for the lot in question had been reduced to two residential units even though the maximum density was “not even close”.

Mr. Emerson questioned that if the building were oriented “90° the other way”, if a variance would be needed. Mr. Long stated by changing the orientation of the units to north/south, you would bump into the side setbacks.

Mr. Emerson questioned why a smaller building could not be placed on the lot in order to meet the Code. Mr. Long stated the units being built to the north were much bigger in size than the ones proposed. Mr. Long stated the alternative would be to increase the building height which would take away from the character of the development. Mr. Conwill stated the size of the units (2) were about 1,300-sq. ft.; the units to the east and west were 1,200-sq. ft. in size with 4 units in each building. Mr. Conwill stated the footprint was a little bit bigger in that the units proposed were single story which would marry itself with the property to the north that was currently under development. Mr. Conwill stated the size was about the least amount possible that could exist without having to go to a single unit. Mr. Long stated by changing the orientation, the parking layout would also be affected.

Mr. Emerson questioned if Staff had received any calls from neighboring properties. Mr. Dutton stated he had received general inquiries.

Tate Emerson moved, Doug MacMillan seconded, to approve the request of Gebcon Properties, Ltd. at 1141 Mindy Lane.

Pat Zoller voted yes because of the special conditions given the narrowness of the property.

Doug MacMillan voted yes. Mr. MacMillan stated the proposal would meet the character of all of the other buildings around it. Mr. MacMillan also stated he was voting yes because of the Code changes and that the lot met the Code when it was originally subdivided. Mr. MacMillan noted that the applicant also lowered the density.

Adrian Eriksen voted yes and felt the variance criteria was met. Mr. Eriksen cited the narrowness of the lot and was the minimum necessary to make use of the land.

Lukas Gaffey voted yes.

Tate Emerson voted yes and indicated he felt the essential character of the neighborhood would be maintained. Mr. Emerson stated the tradeoff of the lower density use to setback differences was acceptable.

Motion carried by a 5-0 vote.

**Appeal #2014-09. Corey Kandel** is requesting a use variance from Planning and Zoning Code Section 1141.02 to allow a single family residential use in a C-5 (General Commercial) District at 2625 Vinton Woods Drive.

Kate Kandel, 950 Thomas Drive, Ashland, Ohio stated a variance was requested for 2625 Vinton Woods Drive. Ms. Kandel stated when application was made for a building permit, she learned that the property was zoned commercially. Ms. Kandel noted that access to the lot was through Vinton Woods and believed the lot was originally part of a larger lot that was then subdivided. Ms. Kandel noted that the Auditor's Office showed the property as residential. Ms. Kandel stated application was made to rezone the property but that the variance would allow for them to begin construction of the home pending the rezoning of the property. Mr. Dutton noted that the rezoning request would be heard by the Planning commission at its April 23 meeting and then their recommendation would be forwarded to City Council. Mr. Dutton stated the rezoning process took 3-4 months to complete, which was why a use variance request was before the Board.

Mr. MacMillan noted the home would be located next to a commercial development (Hospice). Ms. Kandel stated the properties were buffered by trees; the other adjacent properties were zoned residential.

Mr. Emerson questioned the zoning of the property. Mr. Dutton stated the lot was originally part of the Hospice parcel which was zoned commercially. Mr. Dutton noted, however, that the lot had access onto Vinton Woods, which was a residential development. Mr. Gaffey stated even if a commercial business had purchased the property, he felt it would be difficult to "put anything in there" that would make sense because access would be an issue. Mr. Emerson questioned if a business would be permitted to have access off of a residential drive. Mr. Dutton stated yes.

Ms. Kandel stated the parcel was advertised as a residential building lot and was also shown to be residential on the Auditor's website. Ms. Kandel stated she had a child with special needs, and waiting four months for the rezoning of the property was not in the best interest of her family.

Doug MacMillan moved, Lukas Gaffey seconded, to grant the request of Corey Kandel at 2625 Vinton Woods Drive as submitted.

Barb Knapic, 2766 Vinton Woods, Ward 2 Councilperson, stated she had contacted residents on Vinton Woods and Tartan Ridge to let them know that the request in question was being proposed to the Board, and the comments she had received was that they would much rather have the lot zoned residentially than commercial and that there was neighborhood support for the variance.

Mr. Emerson stated if the variance were approved, if the rezoning request would still be considered by the Planning Commission. Mr. Dutton stated the variance would "stay with the land", so the single family residential use would remain with the property. Mr. Dutton stated the rezoning request would still be considered by the Planning Commission. Mr. Emerson questioned if there was criteria for a change in zoning. Mr. Dutton stated yes. Mr. Emerson questioned if he

felt the applicants met the criteria. Mr. Dutton stated City Council would hear/act on the rezoning request. Ms. Kandel indicated they would continue with the rezoning request even if the variance were granted.

Mr. Dutton stated he received an e-mail from a property owner on Vinton Woods who was in support of the variance.

Pat Zoller voted yes. She stated she felt the applicant met the criteria for a use variance and noted that that the applicant was pursuing a rezoning of the property.

Doug MacMillan voted yes. Mr. MacMillan stated he felt it made sense for the land to be developed residentially.

Adrian Eriksen voted yes. Mr. Eriksen stated he felt the applicant met the criteria and indicated the adjacent residential properties also wished for the property to be developed for residential purposes.

Lukas Gaffey voted yes and noted he was in agreement with comments made by other Board members.

Tate Emerson voted yes and stated he felt the criteria had been met and hoped that the rezoning request was approved so that the applicant did not have any further issues.

Motion carried by a 5-0 vote.

**Appeal #2014-10. Mike Sommers of Stark Development, for WWM Properties Ltd.,** is requesting an area variance from Planning and Zoning Code Section 1165.06(c) to allow a parking area without the required screening from the right-of-way in a C-5 (General Commercial) District at 3582 Cleveland Road.

This request was withdrawn by the applicant.

**Appeal #2014-11. John Long of Shaffer, Johnston, Lichtenwalter & Associates, Inc.,** representing Chesterland Estates requesting an area variance from Section 1143.06(a) to allow parking within the required front setback for property on the east side of Akron Road, across from Vinton Woods Drive, in an M-1 (Office/Limited Manufacturing) District.

Jerry Baker, Chesterland Estates, stated when Chesterland purchased the property, the frontage was zoned M-1 and the back was zoned M-2. Mr. Baker stated as part of the development, a road and infrastructure was constructed. Mr. Baker stated the bigger buildings were constructed to the rear of the property, away from the road and neighbors. Mr. Baker stated he had met with City Staff and had agreed to limit the traffic in/out of the site to a minimum and agreed that any trucks that would come to the site for deliveries would exit onto Enterprise Drive. Mr. Baker stated the proposed building would look a lot like the front of Verizon Wireless/DeSilva Collections building on Burbank Road. Mr. Baker stated signage over each of the doors for the two spaces would be added; no parking lot lighting was proposed – only security lighting on the building. Mr. Baker stated the building would have very low use and would be used for warehousing and there would be a will-call area for one of the users. Mr. Baker stated that user had one semi which would come to the site around 5:00 a.m. to unload at the back of the building. Mr. Baker stated the other tenant space had not yet been officially leased but noted he was talking with a local company

about the tenant space and indicated an art department and literature storage would potentially exist at the site. Mr. Baker stated the same truck traffic limit that was placed on Merit Drive would exist on this property as well—that trucks would exit out onto Long Road. Mr. Baker indicated the lot was nearly 300' wide and provided for greenspace and buffering (hedge row in front of the parking area). Mr. Baker stated the building proposed was much better than a possible manufacturing building. Mr. Baker noted that the adjacent property was zoned C-5.

Mr. Baker stated the variance was to permit parking to the front of the building. Mr. Baker stated by providing parking to the rear of the building, the building would face Bauer Corporation and the shipping area would face SR 585. Mr. Baker stated with the new improvements to SR 585, the City would be removing the traffic signal at Long Road which was of concern to him.

Mr. Emerson questioned the variance request and asked for an explanation. Mr. Dutton stated all of the parking would have to be located behind the building and, in order to do that, the building would have to be moved to the required setback and all of the parking would have to be located behind it. Mr. Dutton stated under the Zoning Code, parking was not permitted between the building and the street.

Alan McFalls, 1669 Armadale Isle, stated the property would be the first lot to be developed and have access both off of SR 585 and Enterprise Parkway. Mr. McFalls stated there were several vacant parcels south of the one in question and asked to what extent approving the variance in question would set a precedent for the development of those lots. Mr. Emerson stated the Board, in reviewing every appeal, had to consider that each time a variance was brought before them. Mr. Dutton stated the only precedent the granting of this variance could possibly set was with the setback and parking. Mr. Dutton stated access points were a different issue as that was governed by the City Engineer and/or Planning Commission.

Mr. McFalls questioned if there were alternative site plans developed without the need for the variance and what the impact would be on the location of the building and proximity to SR 585. Mr. McFalls also questioned how much the parking lot location necessitated the need for an access point from SR 585. Mr. Baker stated the City initially asked for the driveway from the lot to line up with Vinton Woods. Mr. Baker stated he had looked at setting the building sideways which led to issues with maneuvering of semi traffic. Mr. Baker stated he and the City, along with Shaffer, Johnston, Lichtenwalter, felt that the building as proposed was probably the best approach.

Barb Knapic stated as she had done with the Kandel appeal, notification was given to residents in her neighborhood (Vinton Woods) and Tartan Ridge with respect to the variance request. Ms. Knapic stated the residents would much rather have a parking lot with ingress/egress facing their development than a truck dock. Ms. Knapic stated the residents were in support of the variance as they felt it would be better for their property values to have the development the way the applicant was proposing.

Doug MacMillan moved, (unknown who seconded), to grant the request of Chesterland Estates for property located on the east side of Akron Road, across from Vinton Woods Drive.

Pat Zoller voted yes. Ms. Zoller stated she felt it was an unusual situation and the proposal was, in her opinion, the best solution.

Doug MacMillan voted yes. He stated there were attempts made to try other alternatives. Mr. MacMillan stated the residents in the area were also in support of the parking lot as proposed.

Adrian Eriksen voted yes, for reasons explained by Ms. Zoller and because of the strong support by the local neighborhoods regarding the variance.

Lukas Gaffey voted yes, for all the reasons mentioned by the other Board members.

Tate Emerson voted yes and stated the variance was the minimum necessary to make reasonable use of the property and to maintain the essential character of the property.

Motion carried by a 5-0 vote.

Meeting adjourned at 8:30 p.m.

---

**Tate Emerson, Chairman**

---

**Laurie Hart, Administrative Assistant**