

**MINUTES  
BOARD OF BUILDING AND ZONING APPEALS**

**December 5, 2013**

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

**MEMBERS ABSENT:** Gregg McIlvaine

**STAFF PRESENT:** Andrew Dutton

**I. MINUTES**

Doug MacMillan moved, Adrian Eriksen seconded, to approve the Minutes of November 11, 2013 as received. Motion carried by a 6-0 vote.

**II. PUBLIC HEARINGS**

**Appeal #2013-22.** Jon McGuire of Village Services Inc. is requesting a use variance from Planning and Zoning Code Section 1149.03(c)(2) to expand a nonconforming use outside of the existing building in a C-2 (Neighborhood Business) District at 611 West Liberty Street.

This appeal was withdrawn by the applicant on December 5, 2013.

**Appeal #2013-30.** Bret Defibaugh is requesting a use variance from Planning and Zoning Code Section 1133.02(d) to allow a haunted barn use and an area variance from Section 1169.15(b) to allow for unpaved parking spaces in an R-1 (Suburban Single Family Residential) District at 1618 Portage Road.

Bob Reynolds, Reynolds Law Office, representing Bret Defibaugh, was present. Mr. Reynolds stated in June, the Board granted a use variance for the proposed haunted house for October, 2013. Mr. Reynolds stated they are now back before the Board asking for a permanent granting of the haunted house use of the property as it had been very successful. Mr. Reynolds stated there had been no problems relating to traffic, safety, and noise, and he was not aware of any concerns the neighbors had.

Mr. Emerson questioned if Staff had received any comments from residents regarding the haunted house use. Mr. Dutton stated he had not.

Mr. Emerson noted that with the first granting of the use variance, the church had submitted a letter in opposition to the Board. Mr. Reynolds stated he recalled that the church voiced opposition to its original application of more than a year ago as it was concerned the church property would be used for overflow parking.

Mr. Reynolds stated the application was identical to the one made in June, 2013. In June, 2012 the use operated as a "friends and family" type operation which did not require a variance to be granted. Mr. Reynolds stated the problems which were found were more organizational in nature and had more to do with getting people through the facility itself.

Mr. Reynolds stated with regard to the area variance for parking, there was plenty of grass areas which could be used. The Armory building next door was now occupied, which had not been the case in June, but it was found that they did not need to use that area for parking during the haunted house event. Mr. Reynolds stated the grass would be the first areas used for parking, but that overflow parking might be needed on the Armory site as well.

Mr. MacMillan questioned if the same “entrance” and “exit” points would be used as he felt that provided good traffic flow in/out of the site. Mr. Reynolds stated yes.

Mr. Emerson questioned how much parking was available. Bret Defibaugh, owner of the property, stated there was 20-25 parking spaces on the gravel/grassy area on the premises, but that the Armory parking area had been used when numbers reached 31 and the wet weather were factors. Mr. Defibaugh stated traffic came in about as fast as it left when the use was in operation. Mr. Emerson questioned if there were issues with people trying to park across the street or anywhere else. Mr. Defibaugh stated no.

Mr. Defibaugh stated with respect to the lighting on the property, everything was directed toward the use.

Mr. MacMillan questioned the length of time the average person was there. Mr. Defibaugh stated typically, 45 minutes.

Mr. Defibaugh stated there were helpers at the Armory, at the driveway entrance, and at the woods, to help direct people. Mr. Reynolds stated there was plenty of manpower present when the use was in operation and that, typically, there were 35 workers when the use was in operation.

Mr. Emerson stated he was a little hesitant to grant an indefinite use variance. Mr. Reynolds questioned if a 5-year time limit would be more realistic. Mr. Reynolds stated Mr. Defibaugh owned the property, and it was his intent to someday live there. Mr. Reynolds stated Mr. Defibaugh wanted to be a good neighbor. Mr. Defibaugh stated if there were any problems associated with the use, it would not happen. Mr. Defibaugh stated he spoke with many neighbors after the event to see if there were issues. Mr. Defibaugh stated nearly all of the noise was contained inside, and it was suggested that additional lighting be added at the entrance.

Ms. Zoller questioned if there was a potential to use the property for something else. Mr. Defibaugh stated he had given thought to tearing down one of the houses and constructing a home on the land. Ms. Zoller stated if the Board granted the haunted house use, what would keep the owner from having other events at the property. Mr. Reynolds stated the variance was for the specific purpose of a haunted house for October and the first weekend in November.

Mr. MacMillan stated he was more comfortable granting the use variance for a 5-year period.

Doug MacMillan moved, Ken Suchan seconded, to grant approval of a use variance from Planning and Zoning Code Section 1133.02(d) to allow a haunted barn use and an area variance from Section 1169.15(b) to allow for unpaved parking spaces in an R-1 (Suburban Single Family Residential) District at 1618 Portage Road for an additional 5-year period.

Pat Zoller voted yes. She stated she felt special conditions and circumstances existed.

Ken Suchan voted yes.

Doug MacMillan voted yes. Mr. MacMillan stated there were other organizations that operated uses similar to this that did not have to come before the Board for its approval, citing the Parade of Homes, and that parking occurred everywhere and was oftentimes confined. Mr. MacMillan noted that the property was large in size, was contained, entrance/exit ways were provided, and lighting.

Lukas Gaffey voted yes and agreed with the comments made by both Ms. Zoller and Mr. MacMillan. Mr. Gaffey stated he felt they had made every effort to have minimum impact and still have a successful event within the confines of the regulations.

Mr. Eriksen voted yes.

Mr. Emerson voted yes for the stated reasons. Mr. Emerson stated as for parking, he did not feel it made sense to add concrete to the ground for the minimal use of the event.

Motion carried by a 6-0 vote.

**Appeal #2013-31.** Dave Barber for Pregnancy Care Center of Wayne County is requesting an area variance from Planning and Zoning Code Section 1171.05(b)(5) to allow a freestanding sign with more than 30% changeable copy and changed more than once a day and to Section 1171.09(a)(5) to allow an internally illuminated sign in an R-1 (Suburban Single Family Residential) District at 2330 Cleveland Road.

Dave Barber, Orrville, Ohio stated he was a Board member at the Pregnancy Care Center, and noted the Center was a non-profit organization which offered free services in Wayne County since 1984. Mr. Barber stated the Center had been growing to meet the needs of the community, especially in the last year and a half, to a point where it was felt additional signage was needed. Mr. Barber stated people who came to the facility typically were there because of an unwanted pregnancy. Mr. Barber stated the facility did not try to direct or guide individuals but would offer their support to the individuals. Mr. Barber stated the sign was needed to advertise the Center's free services, and the signage proposed would "get the word out" quite effectively.

Mr. Emerson stated one of the criteria the Board had to look at was that the request was the minimum necessary to make possible the reasonable use of the land or structure and questioned why an electronic sign was vital. Mr. Barber stated many people were referred to the facility by word of mouth as people did not know it existed. The illuminated signage/signage with a message was felt to be the most effective way to make people aware of the Center and its services.

Mr. Emerson questioned the size of the existing sign. Mr. Suchan stated Staff noted it was 24-sq. ft. and that a variance was granted by the Board in 1997 for the existing sign. Mr. Emerson questioned if the existing sign was illuminated/external lights. Mr. Barber stated no.

Mr. MacMillan questioned what other advertising the Center did. Mr. Barber stated they would be taking advantage of the local cable TV posts as soon as the ultrasound service became operational.

Mr. MacMillan questioned if consideration had been given to signage other than a back-lit sign. Mr. Emerson stated the Center could have floodlights and an interchangeable sign. Ms. Zoller questioned if that was what was permitted under the Code currently. Mr. Emerson stated yes. Mr.

Suchan questioned if temporary signage could be utilized. Mr. Dutton stated he was not sure temporary signage was permitted in a residential district. Mr. Suchan stated the location had been formerly used as a real estate office, and the Center was considered a less intensive use. Mr. Suchan noted that the property was zoned residentially and was in an area which was pretty “in tact”. Mr. Emerson stated for non-residential uses, a maximum of 30% of permitted freestanding sign area may be devoted to changeable copy, and a changeable copy may not be changed more than once per day. 30% of the Center’s sign would be 9.6-sq. ft.; and the applicant was proposing 13.8-sq. ft. Mr. Suchan noted it was an externally illuminated situation, which was a separate situation.

Mr. Emerson noted the Board received a letter in opposition from Robin Gigax, 536 East Highland Avenue (see file). Mr. Emerson stated Ms. Gigax did not feel the sign proposed would maintain the character of the existing residential neighborhood. Ms. Gigax noted there had always been adequate signage to identify the business, and that the business was located in the middle of a residential area. Ms. Gigax expressed concern with decreased property values as well.

Mr. MacMillan stated he was struggling with the sign because the area was residential in nature. Mr. MacMillan stated he was not struggling as much with size but rather it being back-lit. Mr. MacMillan questioned if the sign would be turned off at night. Mr. Barber stated the Board could stipulate that, but that the Center had not discussed that.

Mr. Emerson stated he was having trouble with the changeable copy aspect of the sign being more than once a day. Mr. Emerson stated he felt consideration should be given by the Center to making changes to the sign under the Code regulations and noted the sign size could be increased, illumination could be added, in addition to a changeable copy being permitted (once a day), and it would meet the Code regulations and still gain visibility.

Mr. Suchan questioned if the name would be illuminated or only the signboard. Mr. Barber stated he was not certain. Mr. Emerson stated by looking at the sign, it appeared the “Pregnancy Care Center” letters would be internally illuminated.

Mr. Suchan stated the Hospital had a changeable copy sign in a commercial district, but in that situation, the name and everything else was not illuminated and the changeable sign was the smaller part of the sign as opposed to the dominant part of the sign. Mr. Emerson stated he had seen similar signage (at a church in Apple Creek), and he felt that the sign did not fit in, was bright in the middle of the night, and he found it distracting.

Mr. Eriksen stated he was concerned in setting a precedent. Mr. Suchan stated he found it troublesome to open a door with an illuminated sign associated with a non-conforming use in a residential area.

Dennis Vitaro, 2846 Woodside Drive, stated he felt the proposed sign should be on a timer, especially because the property was located in a residential area.

Tate Emerson moved, Doug MacMillan seconded, to grant the request of the Pregnancy Care Center of Wayne County for an area variance from Planning and Zoning Code Section 1171.05(b)(5) to allow a freestanding sign with more than 30% changeable copy and changed more than once a day and to Section 1171.09(a)(5) to allow an internally illuminated sign in an R-1 (Suburban Single Family Residential) District at 2330 Cleveland Road.

Adrian Eriksen voted no. Mr. Eriksen stated he could not in good conscious do that to a residential neighborhood, and he was worried about setting a precedent.

Lukas Gaffey voted no. Mr. Gaffey stated he felt there were other options which could be explored which would fall more within the Code and would accomplish the same goals.

Doug MacMillan stated he felt the sign was nice and that it was fabulous what the Pregnancy Care Center did, but agreed with Mr. Eriksen. Mr. MacMillan voted no.

Ken Suchan voted no. Mr. Suchan stated he was concerned with a precedent being set in other residential neighborhoods.

Pat Zoller voted no. She stated she felt there were other sign options. She expressed concern with the property being located in a residential area.

Tate Emerson voted no. Mr. Emerson stated he felt the Zoning Code allowed for a much more visible sign than what currently existed. Mr. Emerson stated he did not feel the proposed sign would maintain the spirit and intent of the Zoning Code.

Motion failed by a 0-6 vote.

**Appeal #2013-32.** Chuck Jacobs representing Daisy Brand is requesting an area variance from Planning and Zoning Code Section 1181.03(c)(1) to construct a cul-de-sac with a length more than 1,000 ft. in an M-4 (Open Space/Heavy Manufacturing) District on the west side of Geyers Chapel Road, north of Akron Road.

Lynn Snyder, Engineering Associates, stated the variance request was for the temporary cul-de-sac which was planned for a street for the Daisy Brand development. Mr. Snyder stated the regulations stipulated that a cul-de-sac at the end of a street could not be more than 1,000'. The temporary cul-de-sac was approximately 2,000' in length.

Mr. MacMillan noted that essentially, the cul-de-sac would someday become a road, and it would be constructed to the City's specifications. Mr. Snyder stated that was correct. Mr. Emerson noted the cul-de-sac was proposed currently because as of right now, that was where the street would end.

Mr. MacMillan questioned if the size of the cul-de-sac was to enable semi-truck turn-around. Mr. Snyder stated yes. Mr. Snyder stated even in a temporary status, it would meet the City's standards for a cul-de-sac.

Mr. Suchan noted it was an 80' dedicated right of way. Mr. Snyder stated that was correct. Mr. Snyder stated the temporary cul-de-sac would go outside of that, and there would be a temporary easement placed on the plat. Mr. Suchan stated in the City's master plan for street connections, the future street was part of that. Mr. Snyder stated that was correct.

Mr. Emerson questioned the 1,000' cul-de-sac limit and the reasoning. Mr. Suchan stated he believed that when cul-de-sacs were provided for with no connecting streets, there was a concern for fire protection especially through residential developments.

Ms. Zoller questioned how long the cul-de-sac would be considered temporary. Mr. MacMillan stated that would depend on how soon future development would occur.

Mr. Emerson questioned the reasoning for connecting to Old Airport Road. Mr. Suchan stated the connection would provide circulation within the entire industrial area. Mr. Suchan stated it would be a public benefit to the community to have that kind of street because Daisy could have had all of their entrances/exits onto Geyers Chapel Road.

Mr. Vitaro questioned if the street would eventually be dedicated to the City. Mr. Vitaro stated the street would actually exist on private property, and the City would have to maintain it and provide snow removal. Mr. MacMillan noted the easement was already there, and the City would already have that within its control but that Daisy would build it.

Adrian Eriksen moved, Doug MacMillan seconded, to grant the request of Daisy Brand for approval of an area variance from Planning and Zoning Code Section 1181.03(c)(1) to construct a cul-de-sac with a length more than 1,000 ft. in an M-4 (Open Space/Heavy Manufacturing) District on the west side of Geyers Chapel Road, north of Akron Road.

Adrian Eriksen voted yes.

Lukas Gaffey voted yes.

Doug MacMillan voted yes. Mr. MacMillan stated he did not see a downside to the proposed cul-de-sac.

Pat Zoller voted yes.

Ken Suchan voted yes.

Tate Emerson voted yes.

Motion carried by a 6-0 vote.

### **III. MISCELLANEOUS**

Setting of 2014 regular meeting dates and times (see attached calendar).

Tate Emerson moved, Lukas Gaffey seconded, to accept the 2014 meeting calendar dates/times as presented. Motion carried by a 6-0 vote.

Election of officers for 2014: Chairman and Vice-Chairman

Doug MacMillan moved, Ken Suchan seconded, to elect Tate Emerson as Chairman for 2014. Motion carried by a 6-0 vote.

Tate Emerson moved, Adrian Eriksen seconded, to elect Lukas Gaffey as Vice Chairman for 2014. Motion carried by a 6-0 vote.

Mr. Dutton stated he would like to schedule a Worksession with the Law Director and the Board for the January meeting. Mr. Gaffey stated he would not be present for the January meeting.

Board members suggested holding the Worksession at its February meeting. Mr. Dutton stated he felt the Worksession would be approximately 1 hour, and that the Worksession would begin at 5:15 p.m. and the public hearings at 6:15 p.m.

Meeting adjourned at 6:15 p.m.

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**Tate Emerson, Chairman**

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**Laurie Hart, Administrative Assistant**

# CITY OF WOOSTER PLANNING DEPARTMENT

## Meeting Dates – 2014

<b>Board of Zoning Appeals</b>		<b>Design &amp; Review Board</b>		<b>Planning Commission</b>	
<b>Deadline</b>	<b>Meeting Date/Time</b>	<b>Deadline</b>	<b>Meeting Date/Time</b>	<b>Deadline</b>	<b>Meeting Date/Time</b>
December 23, 2013	January 9, 2014 5:15 p.m.	January 7, 2014	January 14, 2014 5:30 p.m.	December 31, 2013	January 22, 2014 5:30 p.m.
January 22, 2014	February 6, 2014 5:15 p.m.	February 4, 2014	February 11, 2014 5:30 p.m.	February 5, 2014	February 26, 2014 5:30 p.m.
February 19, 2014	March 6, 2014 5:15 p.m.	March 4, 2014	March 11, 2014 5:30 p.m.	March 5, 2014	March 26, 2014 5:30 p.m.
March 19, 2014	April 3, 2014 5:15 p.m.	April 1, 2014	April 8, 2014 5:30 p.m.	April 2, 2014	April 23, 2014 5:30 p.m.
April 16, 2014	May 1, 2014 5:15 p.m.	May 6, 2014	May 13, 2014 5:30 p.m.	May 7, 2014	May 28, 2014 5:30 p.m.
May 21, 2014	June 5, 2014 5:15 p.m.	June 3, 2014	June 10, 2014 5:30 p.m.	June 4, 2014	June 25, 2014 5:30 p.m.
June 25, 2014	July 10, 2014 5:15 p.m.	July 1, 2014	July 8, 2014 5:30 p.m.	July 2, 2014	July 23, 2014 5:30 p.m.
July 23, 2014	August 7, 2014 5:15 p.m.	August 5, 2014	August 12, 2014 5:30 p.m.	August 6, 2014	August 27, 2014 5:30 p.m.
August 20, 2014	September 4, 2014 5:15 p.m.	September 2, 2014	September 9, 2014 5:30 p.m.	September 3, 2014	September 24, 2014 5:30 p.m.
September 17, 2014	October 2, 2014 5:15 p.m.	October 7, 2014	October 14, 2014 5:30 p.m.	October 1, 2014	October 22, 2014 5:30 p.m.
October 22, 2014	November 6, 2014 5:15 p.m.	November 4, 2014	November 12, 2014 5:30 p.m.	October 29, 2014	November 19, 2014 5:30 p.m.
November 19, 2014	December 4, 2014 5:15 p.m.	December 2, 2014	December 9, 2014 5:30 p.m.	November 25, 2014	December 17, 2014 5:30 p.m.