

MINUTES
BOARD OF BUILDING AND ZONING APPEALS

July 11, 2013

MEMBERS PRESENT: Gregg McIlvaine, Doug MacMillan, Tate Emerson and Adrian Eriksen

MEMBERS ABSENT: Clinton Sanders and Pat Zoller

STAFF PRESENT: Andrew Dutton

I. MINUTES

Adrian Eriksen moved, Doug MacMillan seconded, to approve the Minutes of June 6, 2013 as received. Motion carried by a 4-0 vote.

II. PUBLIC HEARINGS

Appeal #2013-13. Norman “Bing” Miller representing Stephen Fox is appealing the determination of the Chief Building Official of the City of Wooster that a home at 129 East Vine Street is unfit for human habitation per Section 110.1 of the Property Maintenance Code.

Mr. Emerson indicated that the appeal was withdrawn by the applicant (through his attorney).

Appeal #2013-15. Austin Rogers representing Wooster DOHP VIII, LLC is requesting an area variance from Planning and Zoning Code Section 1169.04(f)(1) to construct fewer parking spaces than required and to Section 1181.09(a)(1) to forego the installation of a public sidewalk in a C-5 (General Commercial) District at 5310 Cleveland Road.

Mike Rubino, GPD Group, Architect for Dollar General, stated two variances were being requested: One a parking variance in order to reduce the number of parking spaces from the required 46 spaces to 30 spaces, and a second variance was to not install the required sidewalk.

Mr. Rubino indicated Dollar General built 600 stores last year and had a pretty good idea of their parking needs. Mr. Rubino stated typically, Dollar General wanted to provide 28-32 spaces at their locations; 30 spaces were proposed at the location in question. Mr. Rubino stated Dollar General preferred to leave more of their site to greenspace. Mr. Rubino stated their peak hour was between 5:00 – 6:00 p.m., and during that time, 23 customers was typical.

Mr. Rubino stated in looking at the area where the proposed Dollar General was to be located, there were no sidewalks in the area, and it was felt that by providing a sidewalk, it would go to nowhere. Mr. Rubino stated the City Engineer also supported the idea of not providing the sidewalks.

Mr. MacMillan stated it was his understanding that there was enough land to install all of the required parking spaces. Mr. Rubino stated there was a chance that if all of the required parking were installed, a setback variance would be needed or that stormwater regulation requirements would be varied. Mr. Rubino stated Dollar General felt it was more important to meet the stormwater and setback requirements rather than provide the required parking. He noted the site was fairly tight and was

surrounded by a private drive on three sides and a parking lot on the remaining side. Mr. Rubino stated much of the area was retained for stormwater management but indicated there would be land available for “a few more spaces”.

Mr. McIlvaine questioned how the City would handle the issue of sidewalks in that area should, down the road, they were extended to that area. Mr. Rubino stated he felt Dollar General would be willing to discuss the installation of the sidewalks down the road if they were found to be necessary. Mr. McIlvaine questioned if they would be opposed to that being a condition of the variance. Mr. Rubino stated that would be fine if it were deemed mandated by the City Engineer but noted only for the length of their property.

Mr. MacMillan asked for clarification as to how many parking spaces the variance was being requested for. Mr. Rubino noted the site plan provided for 30 spaces; 46 parking spaces were required. Mr. MacMillan noted that was a fairly sizable variance. Mr. Rubino stated he did not feel Dollar General could meet the necessary 46 spaces but felt that an additional one or two spaces could be added within the site. Mr. Rubino stated he did not feel providing parking behind the building would be convenient for their customers. Mr. Rubino noted that Dollar General had 3-4 employees, per shift and during their peak hour, they would typically have 23 customers.

Mr. MacMillan questioned where the nearest Dollar General store was located. Mr. Rubino stated there was a Dollar General under construction on Gateway Drive which provided for 30 parking spaces on site; there was a Dollar General located in Dalton as well.

Mr. McIlvaine questioned if there was overflow traffic where people would go should they have more customers than they anticipated. Mr. Rubino stated that was a “good problem to have”, but felt that Dollar General would likely modify the site plan and add parking but he felt confident that they would not have a need for more than the 30 spaces being provided.

Mr. Emerson stated he felt the historical numbers provided by Dollar General with regard to parking was a basis for supporting their need for the variance. Mr. Rubino stated while the building was 9,100-sq. ft. in size, 1,800-sq. ft. of the building would consist of a storage area and would not be used by the customers but that parking was calculated including the storage area. Mr. MacMillan noted that the employees, however, would use part of the 30 spaces being provided. Mr. Rubino noted that the employees would park in the area near the loading dock as opposed to the area near the front doors of the building.

Mr. MacMillan noted that two handicapped spaces were also being provided. Mr. Rubino stated the handicapped spaces were included in the overall parking calculation.

Mr. Rubino stated it would be difficult to add any parking spaces without impeding on the required setbacks which would not only necessitate a parking variance but an additional setback variance. Mr. Emerson questioned if there would be room to add parking on the south side. Mr. Rubino stated typically, Dollar General did not like to put parking “over there” because of the HVAC and utilities were run there. Mr. MacMillan noted that area could be used for employee parking. Mr. Rubino stated Dollar General did not want to turn customers away and wanted to meet the need of their customers. Mr. Rubino noted that the peak hour generally generated 23 customers, but that the rest of the day, the need was less.

Mr. Eriksen questioned the hardship for the parking variance. Mr. Rubino stated there was no way to provide the required 46 parking spaces on the site, so a variance of some sort would be needed. Mr. Rubino stated given the lot size, Dollar General could not meet the requirement. Mr. Dutton questioned if there was an option for a smaller building on the site. Mr. Rubino stated the proposed building was the smallest one Dollar General had and that about 90% of Dollar General stores were of this size.

Mr. MacMillan stated he would like to see Dollar General provide every space that it could. Mr. Rubino stated if the landscape islands were not required, they could provide more spaces and not impact the footprint. Mr. MacMillan questioned about providing additional spaces on the south side of the lot. Mr. Rubino stated he was uncertain whether both a drive isle and parking spaces could be provided in that area. Mr. MacMillan expressed concern with customers parking along the private drive or using other existing parking areas in the vicinity. Mr. Rubino stated he did not foresee that happening. Mr. Rubino stated because Dollar General's customers were "quick in/quick out", there would be enough movement that all 30 spaces would not be occupied at any given time. Mr. Rubino stated the store would serve a certain section of the community and not necessarily the entire city and was more of a neighborhood store as opposed to a regional draw.

Mr. Rubino stated he felt it was important to note that the landscaping and setback requirements of the City were met with the plan as proposed.

Mr. Emerson noted that he traveled along old US Route 30 for work purposes, and during the peak hour, there were only about 8-9 vehicles there at that time (in the RKO plaza).

Gregg McIlvaine moved, Adrian Eriksen seconded, to grant the request of Dollar General for an area variance from Planning and Zoning Code Section 1169.04(f)(1) in order to construct fewer parking spaces than required, and to Section 1181.09(a)(1) to forego the installation of a public sidewalk, in a C-5 (General Commercial) District at 5310 Cleveland Road, contingent upon sidewalks being installed if they were ever provided on the adjacent properties.

Mr. Emerson stated he felt sidewalks were unnecessary at this time. Mr. Emerson stated the historical data provided by Dollar General relating to parking illustrated that additional parking spaces were not necessary. Mr. Emerson stated he felt it was better to have the reduction in impervious area. Mr. Emerson voted yes.

Mr. McIlvaine also voted yes citing the same reasons as Mr. Emerson. Mr. McIlvaine also noted the Board had granted other parking variances, so it was not setting a precedent.

Mr. Eriksen voted yes.

Mr. MacMillan voted yes. Mr. MacMillan indicated that with respect to the sidewalk, he did not have the same struggles as he did with the parking variance but that overall, he would rather the other Code requirements be met, i.e. parking and greenspace.

Motion carried by a 4-0 vote.

Appeal #2013-16. Christopher Siart representing Daisy Brand is requesting an area variance from Planning and Zoning Code Section 1143.05 to construct a building taller than permitted in an M-4

(Open Space/Heavy Manufacturing) District on the west side of Geyers Chapel Road, north of Akron Road.

Brian Barth, Daisy Brand; Chuck Jacobs, Dennis Group; Chris Siart, Dennis Group; were present. Mr. Barth stated a new facility was proposed to be constructed in order to process cottage cheese. Mr. Barth stated their process required Daisy to have a height of 135' which was needed in order to make the product; there were a couple sections which would need a 75' high area as well. Mr. Barth stated there were several silos about 65' in height which would also exceed the 60' height limitation.

Mr. Emerson noted that the 60' high limitation in the Code was to "protect adjacent residential districts by restricting types of manufacturing uses nearby to only those which will not create objectionable influences beyond their district boundaries and will be buffered and screened" which could not happen with structures 135' in height. Mr. Barth stated the building was placed in the middle of the lot and provided "good setbacks" from all property lines. Adjacent to the north was not within the City limits and was agriculture; adjacent to the west was LUK Industries; to the south was land zoned M-4.

Mr. Emerson questioned if Staff had received any inquiries with respect to the variance. Mr. Dutton indicated no.

Lori Farr, 3072 North Geyers Chapel Road, stated she had no concerns with respect to the height of the buildings but did have concerns with regard to increased traffic as she indicated 120 trucks a day in/out of the site, which was what she was told, was a lot. Mr. Barth stated the City was in the process of designing improvements for widening Geyers Chapel Road as well as relocating the intersection of Akron Road/Geyers Chapel Road to make it more of a 90° intersection. Mr. Barth indicated he believed both of those projects were to start next year along with the construction of the Daisy facility.

Mr. McIlvaine questioned the hours of operation at the facility. Mr. Barth stated the majority of the traffic would be from 6:00 a.m. until 6:00 p.m.; less traffic on the weekends. Mr. Barth indicated the plant would operate 24 hours, 7 days a week. Mr. Barth indicated there would not be 120 semi trucks in/out of the facility. The trucks were "smaller route trucks" and was a mixture of different types of deliveries.

Mr. Barth stated Daisy had two other cottage cheese facilities in Texas; the facility in Arizona only produced sour cream. Mr. Barth stated what made Daisy's process unique was that their product was all natural.

Mr. Emerson noted that it was important for the Board that it not set a standard to allow other manufacturing businesses to exceed the Code's height variance, particularly of the height being proposed. Mr. Emerson stated the Board always needed to look for "unique evidence" when evaluating variances. Mr. Emerson questioned if other options were looked at to reduce the height of the structure. Mr. Barth stated the section in question was where the curd was made for the cottage cheese, and the uniqueness was in how the curd was made. Mr. Barth stated there were tubes in the process that would take up the majority of the height. Mr. Barth stated the process was innovative and proprietary and was not a traditional manufacturing process because the product was all natural. Mr. Jacobs stated there was high confidentiality involved with the way the cottage cheese was made and as the architect, they were only told how much space they needed and the 135' was tight to fit what Daisy needed.

Mr. Barth noted there were fermentation tanks that were interior to the building which drove the height of the 75' area proposed. Mr. Barth stated their goal was to start with cottage cheese and possibly later bring in sour cream at a future date. The fermentation tanks were needed for quality reasons/all natural product. Mr. Barth noted that the building was being constructed to handle a significant amount of expansion and to allow for additional equipment inside the building.

Mr. Barth stated the area of the building that would exceed 60' in height was more than 650' – 700' from Geyers Chapel Road; from the north property line, the distance would be approximately 300'. Mr. Barth stated there was a 25' slope from the north property line to the south property line.

Doug MacMillan moved, Adrian Eriksen seconded, to grant the request of Daisy Brand for an area variance from Planning and Zoning Code Section 1143.05 in order to construct a building taller than permitted in an M-4 (Open Space/Heavy Manufacturing) District on the west side of Geyers Chapel Road, north of Akron Road.

Mr. MacMillan stated the variance was necessary to the process involved, and there was no way to make the product without having this type of building. Mr. MacMillan noted that the property was also located "on the edge of town". Mr. MacMillan voted yes.

Mr. Eriksen voted yes and cited the nature of production necessitated the building as proposed.

Mr. McIlvaine voted yes.

Mr. Emerson voted yes but stated he wished there was more information to support the necessity for the height variance but believed the increased setbacks would be good to offset the height of the building from neighboring properties. Mr. Emerson also felt that the process associated with the product necessitated the need for the variance. Mr. Emerson also noted that neighboring properties also did not voice a concern with regard to the proposed height.

Ted Bogner, owner of land to the west, questioned what the proposed setback of the building would be from land to the west and what the height of the building would be at that location. Mr. Barth stated he estimated the setback to be 1,600' and indicated that a receiving bay was located nearest that property line which would be an estimated 40' in height, and the waste water treatment area would be approximately 25' in height and would be an estimated 800' - 1,000' away from the west property line.

Motion carried by a 4-0 vote.

Appeal #2013-17. John Long representing Boys Village is requesting an area variance from Planning and Zoning Code Section 1131.03 to create two lots smaller than the required minimum lot area in a CF (Community Facilities) District at 3055 Akron Road.

Rick Romney, Executive Vice President of Village Network, was present. Mr. Romney stated Village Network wished to parcel off three acres on the north side of their campus for the possibility of selling it. Mr. Romney stated the reason the parcel was 3 acres in size was because it came up against a tree line which provided protection from the rest of the campus.

Mr. McIlvaine questioned if the property would be sold for residential or commercial purposes. Mr. Romney indicated commercial. Mr. Romney indicated one parcel would have a small house on it, and the other parcel would be land only. Mr. Romney noted there were three houses in the vicinity: One that was on Geyers Chapel Road, and two on SR 585/Akron Road. Mr. Romney questioned if the Village Network used the home which would remain on the Village Network property. Mr. Romney indicated yes—it was a group home. Mr. Emerson questioned if the other home was used by the Village Network. Mr. Romney stated right now, it was rented to one of their staff people.

Mr. Emerson noted that the Code required the lot to be 10 acres in size. Mr. Romney noted that the owner of land “on the corner” was interested in buying everything over to the house. Mr. Emerson noted there were large, electrical lines running through the larger lot. Mr. Emerson questioned if the business could expand into the CF land in question. Mr. Dutton indicated that the land would need to be rezoned or a use variance would be needed in order for the business to expand; the residence itself could continue.

Mr. Emerson noted two lots were proposed—a 0.812 acre parcel and a 2.257 acre parcel. Mr. Emerson stated the parcel with the home being separated made sense, but not knowing how the 2.257 acre parcel would be utilized was of concern to him. Mr. Emerson noted, however, that it was likely, since the parcel was zoned CF, that a variance would be needed from the Board as to the use of the land/parcel. Mr. Eriksen questioned why two lots were proposed as opposed to one lot. Mr. Romney stated he was unsure why it was proposed as two lots as opposed to one but indicated that the potential owner had thoughts of using the home for residential purposes and that he had no immediate plans for the vacant, wooded parcel. Mr. Dutton noted that the home could continue as a residence without the need for a variance. Mr. Emerson noted that the adjacent business to the east wanted to purchase the larger of the two parcels for future expansion of the business but in order to expand the business, a use variance would be needed. Mr. Emerson stated he would hope the land would not become an eyesore with outside storage of electrical components.

Mr. Eriksen stated his concern was in not knowing why two parcels were being created as opposed to one. Mr. Eriksen stated he was o’kay in making one lot less than the required acreage in order to sell the property, but did not understand the necessity of making two lots. Mr. Romney stated the way the land was proposed to be subdivided, it would allow the residence to remain a residence but would also allow for the expansion of the business into the other parcel.

Mr. MacMillan also expressed concern in creating a “little tiny parcel” of land when the minimum lot size was 10 acres in the CF District. Mr. MacMillan stated he was concerned in setting a precedent, especially with the smaller lot size being proposed.

Mr. MacMillan asked if the Board could treat the proposal as one lot, nearly three acres in size, as opposed to two lots consisting of 0.812 acres and 2.257 acres. Mr. Dutton stated yes. Mr. Emerson stated the variance would essentially be for one lot, encompassing 3.07 acres in size as opposed to two lots.

Doug MacMillan moved, Adrian Eriksen seconded, to grant the request of Boys Village for an area variance from Planning and Zoning Code Section 1131.03 in order to create one lot (3.069 acres in size) smaller than the required minimum lot area in a CF (Community Facilities) District at 3055 Akron Road.

Doug MacMillan voted yes.

Adrian Eriksen voted yes.

Gregg McIlvaine voted yes.

Tate Emerson voted yes.

Motion carried by a 4-0 vote.

Meeting adjourned at 6:45 p.m.

Tate Emerson, Chairman

Laurie Hart, Administrative Assistant