

MINUTES

CITY OF WOOSTER BOARD OF BUILDING & ZONING APPEALS

June 1, 2017

I. MEETING CALLED TO ORDER AND ROLL CALL

Lukas Gaffey, Chairman of the Board of Building and Zoning Appeals, called the meeting to order. Board members Doug MacMillan, Ken Suchan, Lukas Gaffey, Brad Gowins, and Greg Taylor, were present at the meeting. Board members Stewart Fitz Gibbon and Gregg McIlvaine were absent. Andrew Dutton, Planning and Zoning Manager, was present representing the City of Wooster.

II. APPROVAL OF MINUTES

Ken Suchan moved to approve the May 4, 2017, regular meeting minutes. Brad Gowins seconded the motion. The motion passed unanimously, 4-0-1 with Doug MacMillan abstaining.

III. PUBLIC HEARINGS

Application #BZA-17-19.

Kelly Spaulding of Party City requested an area variance from Planning and Zoning Code Section 1171.04(a) to allow building signage larger than permitted and Section 1171.04(b)(1)(A) to allow window signage exceeding 30% of the total window area at 3793 Burbank Road in a C-5 (General Commercial) District.

Wendy Walkerly, 1158 Woodington Avenue, stated that she was proposing window signs covering 35% of the window are using printed graphics. Mrs. Walkerly explained that the store was 98 feet wide and the peg board wall extended the majority of the store's width. Mrs. Walkerly continued that the graphics were a national standard for over 800 locations. Mrs. Walkerly stated that the graphics would not change promotionally.

Mr. Gaffey asked if anyone from the public would like to address the Board regarding the application. No one from the public was present to address the application.

Doug MacMillan made a motion to approve the variance as presented. Brad Gowins seconded the motion.

Brad Gowins voted yes and stated that the Board appreciated the corporate office working with the Board and compromising on a solution.

Doug MacMillan voted yes and stated that the applicant did a nice job reducing signage.

Greg Taylor voted yes.

Ken Suchan voted yes and stated that the changes brought the signage very close to compliance and he felt the application was in the spirit of the code.

Lukas Gaffey voted yes and stated that he appreciated Party City making an effort to fit within the code and understand the position of the Board.

The motion passed unanimously, 5-0.

Application #BZA-17-23.

Craig Sanders of Freeman Building Systems representing Seaman Development Group Ltd. requested an area variance from Planning and Zoning Code Section 1147.09(h)(5) to allow a commercial recreation use further than 300 ft. from an arterial or collector street and Section 1163.03 to allow encroachment into wetland setbacks for property located south of 1000 Venture Boulevard (PN 68-00379.008) in an M-2 (General Manufacturing) District.

Craig Sanders, 201 East Liberty Street, stated that he was requesting a variance regarding a commercial recreation use further than 300 feet from an arterial or collector street. Mr. Sanders explained that he was also requesting a variance to encroach into a wetland setback. Mr. Sanders continued that the project was constrained by the proximity of the new facility to the existing facility of the Seaman Corporation and the location of the wetlands. Mr. Sanders stated that an attempt was made to mitigate the disturbances, but the site's grade made disturbances unavoidable.

Doug MacMillan asked if six tennis courts were needed to play tournaments. Mr. Sanders answered that the minimum was five courts and he felt that six courts worked much better for the overall utilization of the site.

Mr. MacMillan asked Mr. Sanders about traffic for the project. Mr. Sanders answered that, if all six courts were full, there would be 24 people at the site plus a few employees. He noted that, even including overlap between matches, there would not be a great amount of traffic to the site and 44 to 48 spaces would be available. Mr. Sanders explained that most of the traffic would happen after 5 pm, while most traffic in the area occurred during daytime business hours.

Mr. Gaffey asked if anyone from the public would like to address the Board regarding the application. No one from the public was present to address the application.

Doug MacMillan made a motion to approve the variance as presented. Greg Taylor seconded the motion.

Brad Gowins voted yes.

Doug MacMillan voted yes and stated that the way the applicant positioned the building was the optimal layout, taking into consideration traffic.

Greg Taylor voted yes.

Ken Suchan voted yes and stated that his decision was based on the Planning Commission's conditional use approval of the project and the limited existing traffic in the area.

Lukas Gaffey voted yes for reasons cited by the Board. He also indicated that facility would fit very well in the area and would have a minimal traffic impact.

The motion passed, 5-0.

Application #BZA-17-24.

Donald Denali requested a use variance from Planning and Zoning Code Section 1133.02(d) to allow the use of 2,300 sq. ft. of the existing building for commercial storage at 1859 Burbank Road in an R-1 (Single Family Residential) District.

Donald Denali, 9293 Mount Eaton Road, stated that he was proposing two rooms for storage in the back of the building. Mr. Denali explained that the Wayne County Performing Arts Council had stored items in the building for eleven or twelve years. Mr. Denali continued that he wanted to lock the old entrance on the inside and use those two rooms as storage. Mr. Denali explained that no traffic would come out in front of the building. Mr. Denali stated that the Wayne County Performing Arts Council was renting the two rooms for storage. He indicated that the Arts Council would move items approximately three or four times a year for their shows.

Lukas Gaffey asked what kind of vehicle traffic would be at the site for the use. Laurie Schang, 659 Greenwood Blvd., answered that pickup trucks, box trucks and small vehicles would go in and out of the building. Mrs. Schang stated that there would be set pieces and stage props stored in the building. Mrs. Schang explained that the Performing Arts Council would come in and construct some of the sets for performances on the site and then a couple of weeks later move the items back to storage. She continued that, at most, six people would be on the site and there would be with three or four performances per year. Mrs. Schang stated that the back door on School Court would be used for access. Mrs. Schang continued that 100 dollars per month was paid for rent.

Ken Suchan asked how long the City of Wooster allowed the Performing Arts Council to store items in the building. Mrs. Schang answered approximately five or six years. Mr. Suchan stated that the building had not been a school for about ten years. Mr. Suchan asked if the Wayne County Performing Arts Council was a nonprofit organization. Mrs. Schang answered that it was in the nonprofit category.

Brad Gowins asked Mr. Denali to break down the maintenance costs for the building against the income received. Mr. Denali stated that it was hard to tell. Mr. Gowins asked Mr. Denali that if the Wayne County Performing Arts Council ceased using the storage, would he allow another user to store items in the building. Mr. Denali stated that he would not.

Mr. Gaffey stated that instances where nonresidential buildings become vacant in a residential area were challenging. He noted that the Board considered various factors for the reuse of such buildings, such as the compatibility with the area, long term effects, the intent of the Planning and Zoning Code, and concerns from neighbors.

Mr. MacMillan asked if the applicant would be averse to having a condition that the Performing Arts Council could use the storage for as long as they needed, but if they decided to move out, then the storage use would cease. Mr. Denali responded that he was fine with a condition to limit the storage use to only himself or the Performing Arts Council.

Ken Suchan asked Mr. Denali if he lived in the building. Mr. Denali answered that he did not live there and he rented the building to a single family.

Mr. Gaffey asked if anyone from the public would like to address the Board regarding the application.

Jon Ulbright, 941 Buchholtz Drive, stated that he strongly recommended that the Board deny the application. Mr. Ulbright continued that the application sounded reasonable, but could open the door to more commercial storage facilities in the residential area. Mr. Ulbright explained that denial was necessary to keep stability in the area. Mr. Ulbright continued that the adjacent cell tower was not a business and was needed by the community.

Jim Zeiter, 1898 Burbank Road, stated that he agreed that approval would open the door for other nonresidential uses and indicated he was concerned about the effects on property values.

Lon Vinion, 233 Elm Drive, indicated that his property was located on the left side of the school. Mr. Vinion continued that the site served as a buffer between a commercial district and a residential area. Mr. Vinion explained that community members were concerned about the encroachment of commercial activities into that buffer. Mr. Vinion stated that he supported the Wayne County Performing Arts Council. Mr. Vinion indicated that the applicant needed to present clear and convincing evidence that the property could not be put to any other economically viable use.

Linda Carter, 915 Elm Drive, stated she was from the Wayne County Performing Arts Council. Mrs. Carter asked the Board if the property needed to be zoned commercially. Mr. Gaffey explained that the zoning would remain unchanged and outlined the Board's variance consideration. Mrs. Carter discussed the past storage of items in the building by the Wayne County Performing Arts Council. Mrs. Carter outlined the activities of the Arts Council and their storage needs.

Lou Whitman, 1836 Burbank Road, stated that he lived right across the street from the school and agreed to the exception to allow the Wayne County Performing Arts Council to use the area for storage.

Joyce Burdno, 1913 Blair Blvd, stated that she was representing a group of residents on Elm Drive, Burbank Road, and Blair Blvd. Mrs. Burdno explained that she had worked on zoning in the area since 1993 and many of the residents wanted to maintain the R-1 District. Mrs. Burdno continued that the school was in the middle of a residential neighborhood and the buyer was notified of R-1 zoning restrictions when the property was sold.

Linda Houston, 1823 Burbank Road, stated that she was in favor of the variance with the indicated sunset condition.

Mandy Parkinson, 343 Elm Drive, stated her concerns about the long term effects of the variance, particularly future ownership of the property. She also noted that she had concerns about effects on property values in the area.

Nancy Zeiter, 1898 Burbank Road, asked what the building was used for now. Lukas Gaffey answered that the front part of the building was rented to a single family.

James Keim, 331 Elm Drive, asked about the easement that goes back to the property. Mr. Gaffey asked if Mr. Keim was referring to the street that went back to the school, School Court. Mr. Gaffey clarified that the Wayne County Performing Arts Council would use

School Court to access the storage area of the building. Mr. Keim indicated that he was referring to the lot fronting on Elm Drive. Mr. Gaffey stated that the parcel on Elm Drive was not part of the proposal. Mr. Keim noted his concerns with future storage users.

Addison Goodell, 100 Salter Street, stated that he appreciated the work that Mr. Denali had done to the building. Mr. Goodell explained that Mr. Denali wanted to use 2,300 sq. ft. as storage and the building code allowed an accessory storage use that was 10% or less of the building, as long as it was an accessory to the primary occupancy of the building. Mr. Goodell continued that, when the building was a school, they could have had 2,300 sq. ft. of storage space and would not have needed a variance. Mr. Goodell stated that when the building was purchased, it was a conditional use as an educational facility. Mr. Goodell asked if the building could still be used as an educational facility. Mr. Dutton answered that the Planning Commission would need to review and approve a conditional use application for an educational facility.

Ken Suchan moved to adjourn to Executive Session. Greg Taylor seconded the motion. The motion passed unanimously, 5-0, at 7:41 pm.

Greg Taylor moved to come out of Executive Session. Doug MacMillan seconded the motion. The motion passed unanimously, 5-0, at 7:55 pm.

Ken Suchan made a motion to approve the variance as presented with the condition that the Wayne County Performing Arts Council use 2,300 sq. ft. for the storage of sets and equipment. He continued that if the Wayne County Performing Arts Council ever cease to rent the space, the variance would dissolve. Brad Gowins seconded the motion.

Greg Taylor voted no.

Ken Suchan voted yes and stated that the use had essentially been a nonconforming use for the last five years and had not affected the neighborhood.

Brad Gowins voted no and stated that he did not feel there was clear and convincing evidence to grant the variance. He also noted that the property was unique.

Doug MacMillan voted no and stated that the turnout was extraordinary.

Lukas Gaffey voted no and stated that his decision was based on the turnout, the lack of clear and convincing evidence, and the spirit and intent of the Zoning Code.

The motion was denied, 1-4.

IV. **APPLICATIONS CONTINUED TO BE TABLED**

Application #2016-19. (Application Continued to be Tabled by the Applicant)

Doug Drushal of Critchfield, Critchfield and Johnson, Ltd. representing Renner Development Company Ltd. requested a use variance from Planning and Zoning Code Section 1143.02(d)(2)G. To allow a prohibited use for the outdoor storage of materials at 1055 East Henry Street in an M-1 (Office/Limited Manufacturing) District.

Application #2016-20. (Application Continued to be Tabled by the Applicant)

Doug Drushal of Critchfield, Critchfield, and Johnston, Ltd. representing Renner Development Company Ltd. requested an area variance from Planning and Zoning Code Section 1143.07(a)(2) to allow the outdoor bulk storage of materials without a means to effectively prevent spreading, Section 1143.07(d) to store outdoor materials on a surface which is not asphalt or concrete, Section 1143.07(e) to store outdoor materials without the required screening, Section 1165.07 to allow a non-residential development without the required buffer yard, and Section 1169.15(b) to allow gravel access drives at 1055 East Henry Street in an M-1 (Office/Limited Manufacturing) District.

V. ADJOURNMENT

Brad Gowins made a motion to adjourn. Ken Suchan seconded the motion. The motion passed unanimously, 5-0.

Lukas Gaffey, Chairman

Carla Jessie, Administrative Assistant