

## MINUTES

### CITY OF WOOSTER BOARD OF BUILDING & ZONING APPEALS

March 2, 2017

**I. MEETING CALLED TO ORDER AND ROLL CALL**

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

**II. APPROVAL OF MINUTES**

Greg Taylor moved to approve the February 2, 2017, regular meeting minutes. Brad Gowins seconded the motion. The motion passed 5-0.

**III. PUBLIC HEARINGS**

**Appeal #BZA-17-05.**

Robert Reynolds of Reynolds Law Office representing Bret Defibaugh and Corbett Coots requested a use variance from Planning and Zoning Code Section 1133.02(d) to allow a prohibited beauty salon use at 602 East Bowman Street in an R-2 (Single Family Residential) District.

Bob Reynolds, 839 Forest, gave a brief history of the property and stated it had been vacant for several years. Mr. Reynolds indicated that applicants wanted to open a nail salon. Mr. Reynolds stated that Jessie's Nails was previously located on the south end of Beall Avenue and had burned down last October. Mr. Reynolds explained that the salon would employ five employees and operate from 9 am to 6 pm.

Greg McIlvaine asked what the last use was for the property. Bret Defibaugh, 4595 Wells Road, answered that a Hydraulic Hose business was the last tenant which closed approximately six months ago.

Mr. Fitz Gibbon 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.

Brad Gowins made a motion to approve the variance as presented. Ken Suchan seconded the motion.

Greg Taylor voted yes.

Ken Suchan voted yes and stated there was no viable residential use for the building and the use was consistent with the barber shop and beauty shop business next door.

Brad Gowins voted yes.

Greg McIlvaine voted yes and stated that he was voting with the understanding that the hours of operation would be 9 am to 6 pm.

Stewart Fitz Gibbon voted yes.

The motion passed unanimously, 5-0.

***Appeal #BZA-17-07.***

Paul Woods Sr. of P & G Jewelry requested an area variance from Planning and Zoning Code Section 1171.04(a)(2) to allow building signage larger than permitted, Section 1171.04(b)(1)A. to allow window signs to cover more window area than permitted, and Section 1171.07(c) to allow a flashing and moving sign at 1847 Cleveland Road in a C-2 (Neighborhood Business) District.

Paul Woods Sr., 1127 Mindy Lane, stated that he owned P & G Jewelers and Mrs. Stone was the business manager. Mr. Woods explained that he bought the store approximately two years ago and there was existing signage on the glass. Mr. Woods continued that they removed one sign and put up another sign to attract more business. Mr. Woods stated that he received a letter that he needed to take everything off the glass. Mr. Woods explained that the signage which needed to be removed was there for the last 18 months. Mr. Woods stated that the electronic programmable sign was flashing and now it was within code. Mr. Woods stated that he wanted the signage to stay on the glass.

Greg McIlvaine asked for clarification on the signs in the windows. Mr. McIlvaine stated that the matter was not the signs on the windows, it was a matter of too many signs overall taking up to the much square footage. Mr. Woods indicated that all but one sign was there for the last two and half years.

Andrew Dutton explained that the code specifically stated how much signage was allowed. Mr. Dutton stated that the 50 sq. ft. of signage permitted on the front and 25 sq. ft. of signage permitted on the sides of the building was almost entirely taken up by the permitted wall signs. Mr. Dutton continued that the additional signs put the building over the allowable amount of building signage.

Stewart Fitz Gibbon confirmed that the whether signs were on the wall or window, they were subject to a maximum area. Mr. Dutton stated that the window signs could only cover a maximum amount of the window area. Mr. McIlvaine asked if the amount of signage was due to the size of the building. Mr. Dutton replied that maximum building sign area was based on the width of the building, which resulted in 50 sq. ft of signage permitted on the primary frontage and 25 sq. ft. of signage permitted on the sides.

Stewart Fitz Gibbon stated the electronic sign requirements could not change more that four times per minute. Mr. Dutton stated that the sign was constantly moving and was required to stay static for a period. Mr. Dutton explained that a new requirement reduced the time a message must be displayed to three seconds.

Chad Curtis, 197 Anna Drive, Smithville, stated that he spoke with Mr. Dutton about the code requirements. Mr. Curtis continued that the code required that window signs could only cover 30% of window area and signs could not change more than four times per minute. Mr. Curtis explained that the Wooster Hospital sign changed every three seconds. Mr. Dutton responded that three seconds was the current standard for changing of an electronic sign message. Mr. Curtis stated that one hundred percent of the windows at JoAnn Fabrics were

covered with signs. Mr. Curtis continued to list his findings of various business around the city which were not in compliance with sign regulations.

Mr. Suchan asked what the most recent change in the code was. Mr. Dutton responded that the code recently changed, though the majority of the code had been in place since 2007. Mr. Suchan explained that the sign at Green Leaf was in place before the Zoning Code. Mr. Dutton stated some signs were nonconforming, some signs were not in compliance and were being addressed, and some signs were not in compliance that the needed to be address.

Mr. Fitz Gibbon 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.

Greg McIlvaine moved to adjourn to Executive Session. Brad Gowins seconded the motion. The motion passed unanimously, 5-0, at 6:05 pm.

Greg Taylor moved to come out of Executive Session. Ken Suchan seconded the motion. The motion passed unanimously, 5-0, at 6:11 pm.

Ken Suchan made a motion to approve the variance as presented. Greg McIlvaine seconded the motion.

Greg Taylor voted no.

Ken Suchan voted no and stated that he did not hear any compelling argument as to why the signs should be permitted to not meet the code.

Brad Gowins voted no and stated that sufficient evidence was not provided for the specific questions that needed to be answered to approve the variance. Mr. Gowins stated that he appreciated the situation and understood where the applicant was coming from. He noted that he was aware that other signs were out of compliance and the city would address those situations. Mr. Gowins continued that the Board only dealt with the applications that were brought before them.

Greg McIlvaine voted no and stated the property was located in a great location, was very close to the street and the signage allowed by the code was adequate for the business.

Stewart Fitz Gibbon voted no and stated his vote was for the reasons cited by the Board. He noted that he was sympathetic to the concern about the inconsistencies across the city, but that was not the purpose of the hearing. Mr. Fitz Gibbon stated that the Board looked at the situation of the applicant and the argument presented.

The motion failed unanimously, 5-0.

***Appeal #BZA-17-08.***

Christine Falb of Shaffer, Johnston Lichtenwalter & Assoc. representing Robert Miller requested an area variance from Planning and Zoning Code Section 1133.02(d)(1)J. to allow a flag lot, Section 1133.03(b) to allow lot frontage less than permitted and Section 1133.07(b)(2) to allow a driveway less than three feet from a side property line at 2306 Star Drive in an R-2 (Single Family Residential) District.

Robert Miller, 2306 Star Drive stated that he wanted to split his lot in half. Mr. Miller continued that he could develop the property and have five building lots there, but preferred a lower density development. Mr. Miller stated that he wanted to sell a couple of lots, but intended on keeping the area low density.

Mr. Fitz Gibbon asked if he had a development proposal approved. Mr. Miller answered that development may occur, but at this point and time, he wished to keep the low property density. Mr. Miller continued that he originally purchased 2.72 acres and divided it to allow access to the other remaining 8 acres.

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

Chuck Hall, 1478 Crosswind Court, asked what Lot B was. Mr. Miller stated Lot B was the lot that he wanted to create. Mr. Miller noted that Lot C was up for sale.

Ken Suchan made a motion to approve the variance as presented. Brad Gowins seconded the motion.

Ken Suchan voted yes and stated that a reduction in the density of potentially five houses to two was a positive. Mr. Suchan continued that the rest of the development could proceed per future plans.

Greg Taylor voted yes.

Brad Gowins voted yes and stated that allowing a flag lot was appropriate for reducing the density, given the uniqueness of the land and the current configuration.

Greg McIlvaine voted yes.

Stewart Fitz Gibbon voted yes citing the reasons by other Board members.

The motion passed unanimously, 5-0.

***Appeal #BZA-17-09.***

Roger Kobilarcsik of the City of Wooster representing Wayne Metropolitan Housing requested an area variance from Planning and Zoning Code Section 1133.07(b)(3) to allow parking spaces in the front setback and Section 1165.06(c) to allow parking spaces without the required street frontage planting at 3426 Friendsville Road in an R-1 (Suburban Single Family Residential) District.

Roger Kobilarcsik, 538 N. Market Street, stated that the property was north of the Wooster Safety Service Center. Mr. Kobilarcsik stated that the proposal was to eliminate the drive approach and put in a new driveway further north. Mr. Kobilarcsik stated the van would pull in the drive, let the residences out then pull through the gate to the Wooster Safety Service Center to exit. Mr. Kobilarcsik continued that there was a button inside of the fire station that would be actuated to lower the gate for a fire truck to exit. Mr. Kobilarcsik stated the variance was necessary because the proposed parking was closer to the right of way than permitted. Mr. Kobilarcsik noted that the city would be adding a bike trail on the west side of Friendsville Road. Mr. Kobilarcsik stated that Wayne Metropolitan Housing and

the Wayne County Board of Developmental Disabilities were in favor of the proposal, as it provided better access.

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

Chuck Schwanger, 5125 Back Orrville Road, stated that he was the Director of Maintenance and Modernisation for Wayne Metropolitan Housing. Mr. Schwanger continued that he and the Executive Director had reviewed the plans with the housing authority and believed the plan was a great asset to the property. Mr. Schwanger stated that the proposed layout would allow easier access for residents of getting on and off the bus.

Brad Gowins made a motion to approve the variance as presented. Greg McIlvaine seconded the motion.

Brad Gowins voted yes and stated he appreciated that it was an improvement for the ease of access for the home and for traffic in and out of Friendsville Road.

Greg McIlvaine voted yes.

Greg Taylor voted yes.

Ken Suchan voted yes and indicated that his reasons were for public safety and that the proposed entrance changed made sense.

Stewart Fitz Gibbon voted yes for the reasons cited by the Board.

The motion passed unanimously, 5-0.

***Appeal #BZA-17-10.***

Bryan Hall of GPD Group representing Taco Bell of America, LLC requested an area variance from Planning and Zoning Code Section 1171.04(a), Note C, to allow a sign to be placed on a wall which is not a building frontage at 4094 Burbank Road in a C-5 (General Commercial) District.

Bryan Hall, 1801 Lamar Drive, Columbus, stated that the application was for additional Taco Bell signage on the drive thru side of the building. Mr. Hall explained that the area of the sign was 25 sq. ft. and other proposed building signs were compliant with the code. Mr. Hall noted the subject sign was located on the north side of the building at the drive thru, the same side as the entrance to the shopping center. Mr. Hall stated that the sign would add visual effect to the building for the intersection.

Mr. Fitz Gibbon questioned whether signage was on both faces of the tower. Mr. Hall explained signs were proposed on the Burbank Road side and the shopping center access road side of the building. Mr. Hall continued that the variance was requested because the sign was not allowed on the shopping center access drive side of the building. Mr. Hall stated that the access road was not a public right of way. Mr. Hall noted that the whole sign package proposed a total of 58.4 sq. ft. and the allowable signage on the front of the building was 56 sq. ft.

Mr. Fitz Gibbon 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.

Brad Gowins made a motion to approve the variance as presented. Greg Taylor seconded the motion.

Brad Gowins voted yes.

Greg McIlvaine voted yes.

Ken Suchan voted yes and stated that the entry way, which was a private street, felt like another frontage. He noted that the proposed signage was in the spirit of the sign code.

Greg Taylor voted yes.

Stewart Fitz Gibbon voted yes for the reasons cited by the Board. He stated that he felt that the access road created another frontage and the sign was very moderate for the neighborhood.

The motion passed unanimously, 5-0.

***Appeal #BZA-17-11.***

Joie Schmitz requested an area variance from Planning and Zoning Code Section 1125.06(a)(9) to allow parking for a home occupation in the public right of way and the review of a home occupation by the Board of Building and Zoning Appeals at 118 East University Street in an R-2 (Single Family Residential) District.

Joie Schmitz, 869 Meadow Lane, stated that she wanted to purchase the home at 118 East University Street and turn it into a non-traditional yoga studio. Mrs. Schmitz continued that she would offer specialized, small group, private yoga, and fitness sessions. Mrs. Schmitz explained that the business would provide a quiet and peaceful environment and would not alter the nature of the residential neighborhood.

Mrs. Schmitz stated she would hold one to two classes per day with one to five clients at one time. Mrs. Schmitz explained that her clients could park in her drive, which could fit two cars, and use on-street public parking for approximately 35 to 75 minutes. Mrs. Schmitz reviewed a parking survey that she conducted and indicated on-street parking was available in the area.

Stewart Fitz Gibbon asked if Mrs. Schmitz was proposing to purchase the property and move into the house. Mrs. Schmitz stated that yes, she was. Ken Suchan indicated that 1/3 of the floor space was proposed for the yoga studio, though 1/4 of the floor space was the maximum permitted. Mrs. Schmitz responded that one room of the home was being utilized.

Greg McIlvaine asked if the home was used for the business and if she was going to reside in the home. Mrs. Schmitz answered that she would use the home as a business and office and she would not reside there. Ken Suchan asked if she would rent the home out. Mrs. Schmitz stated she would only use the home for her business and, as the business grew, she would find a bigger location.

Ken Suchan emphasized that one of the determinations was whether the proposal was a home occupation. Mr. Suchan explained that a home occupation was limited to 25% of the space for the business and employees must live in the home. Mr. Suchan stated that when classes were conducted, there was a potential for two to ten cars on the street, which was more than a typical in home occupation.

Stewart Fitz Gibbon clarified with Mrs. Schmitz that she was not residing in the home and only running her business in the home. Mr. McIlvaine asked about signage. Mrs. Schmitz stated that she would have one small sign in the front of the home in the yard.

Mr. Dutton clarified that Mrs. Schmitz was not residing in the home. Mr. Dutton stated that the Board could thus not review the current application. Mr. Dutton explained that a home occupation entails living and working in the home. Mr. Dutton stated that, as Mrs. Schmitz was not living in the home, she would need to revise the application for a use variance to allow a commercial use.

Stewart Fitz Gibbon stated that it was appropriate to withdraw this request, consult with the City and submit a more appropriate application. Mrs. Schmitz indicated she would withdraw the the application.

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

Marie Snoddy, 202 E. University Street, stated she had concerns with the ongoing parking issues with the College of Wooster. Mrs. Snoddy explained that several of the residents in the neighborhood had parking issues. Mrs. Snoddy continued that special events compounded the problem.

Heather Pasteur, 213 E. University Street, stated that the parking was the biggest issue on the street. Mrs. Pasteur stated the parking varies from day to day. She also noted that the property next to 118 E. University Street contained an apartment building with five units and one off street parking space.

***Appeal #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.

***Appeal #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. **ADIOURNMENT**

Greg McIlvaine made a motion to adjourn. Greg Taylor seconded the motion. The motion passed unanimously, 5-0.

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**Stewart Fitz Gibbon, Vice Chairman**

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**Carla Jessie, Administrative Assistant**