

**MINUTES
BOARD OF BUILDING AND ZONING APPEALS**

October 2, 2014

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

MEMBERS ABSENT: Adrian Eriksen and Gregg McIlvaine

STAFF PRESENT: Andrew Dutton

I. MINUTES

Doug MacMillan moved, Ken Suchan seconded, to approve the Minutes of September 4, 2014 as received. Motion carried by a 5-0 vote.

II. PUBLIC HEARINGS

Appeal #2014-20. Chris Butdorf of Lettergraphics representing Flex Yoga, is requesting an area variance from Planning and Zoning Code Section 1171.04(b)(1)(B) to apply multiple window signs on the second story at 147 South Market Street in a C-4 (Central Business) District.

Chris Butdorf, LetterGraphics Sign Company, stated wall window graphics were proposed on the 2nd floor of the building. Mr. Butdorf stated the Code permitted one window graphic on each side of the building, and Flex Yoga was trying to attract attention to its business. He indicated the majority of the 2nd and 3rd floor occupants in the downtown were residences and not businesses, so the opportunity in the downtown for a business owner was rather limited. Mr. Butdorf stated the square footage requirement, per window, had been met with the proposed graphics by not being more than 25% of the window space, but the applicant wished to use more than one window to display the graphics on. Mr. Butdorf stated the graphic was not “over the top” and would not detract from the feel of the downtown.

Mr. Emerson questioned the size of the graphic. Mr. Butdorf stated it was roughly 20% of the window space.

Mr. MacMillan questioned how many windows would be covered. Mr. Butdorf stated three windows would be covered on the front of the building and two windows would have half the graphic (Market Street side); on the south side of the building, it would be similar noting that all three of the windows would contain the graphic.

Mr. Suchan questioned if the graphic, which was not advertising anything, was considered signage. Mr. Dutton stated yes—the lotus was considered signage.

Ms. Zoller questioned how the 2nd floor was accessed. Mr. Butdorf stated there was a door on the south side of the building. Ms. Zoller questioned if a sign could be added to the door. Mr. Butdorf stated there would be a sign on the door with the hours on it.

Ms. Zoller questioned if the existing wall signs were permitted. Mr. Dutton stated yes and noted they were under the same ownership. Mr. Butdorf noted that the South Market Bistro sign would be removed, and a Flex Yoga sign would replace it.

Mr. Suchan questioned when the Code was changed relating to window signage. Mr. Dutton stated in 2007.

Mr. Suchan questioned if the ArtFind Tile sign met the Code. Mr. Dutton stated he was not certain and noted that was a separate building. Mr. Emerson noted that sign was also advertising a business on the 1st floor.

Mr. Suchan questioned the karate sign which existed on the side (Square), and questioned if that sign was erected prior to 2007. Mr. Dutton stated he did not know. Mr. MacMillan stated he believed that sign had been there a long time. Mr. Butdorf stated 2nd and 3rd floor businesses needed to draw attention to their business, especially when they did not have a 1st floor opportunity to do that.

Mr. Gaffey noted that some of the windows were proposed to have signage only on ½ of them. Mr. Butdorf stated that was correct on the front of the building; on the side, signage would exist on the top and bottom windows.

Mr. MacMillan questioned how long the business had been in operation. Mr. Butdorf stated it was not open as of yet at the proposed location (they were currently located somewhere else).

Mr. Gaffey questioned if approving the signage would set a precedent in the downtown. Mr. Gaffey stated he liked the proposal and felt it was minimal in terms of impact, but he was concerned with other 2nd story businesses who might possibly want to do the same thing. Mr. Butdorf stated the downtown district was unique and required Design & Review Board approval prior to any signage being erected. Mr. Butdorf stated he felt the proposed signage was in harmony with the overall look in the downtown. Mr. Butdorf stated currently, there were very few, 2nd floor downtown businesses, and he did not feel that by approving the variance, the Board would be opening up a “can of worms”.

Ken Suchan moved to grant the request of Chris Butdorf of LetterGraphics, on behalf of Flex Yoga, at 147 South Market Street as presented.

Doug MacMillan seconded the motion.

Pat Zoller voted yes. Ms. Zoller stated due to the circumstances, signage was necessary and felt that the proposal was the minimal amount.

Ken Suchan voted yes. Mr. Suchan stated he felt the proposed signage was the most appropriate for the building, despite it exceeding certain standards.

Doug MacMillan stated he struggled with setting a precedent, but noted that the sign was one color, was extremely simple, yet accomplished what the applicant was wanting, and the business was on the 2nd floor which was harder to get people’s attention. Mr. MacMillan voted yes.

Lukas Gaffey voted yes. Mr. Gaffey stated he felt the proposal was very low impact and it was difficult for 2nd floor businesses in the downtown to get attention.

Tate Emerson voted yes citing the comments made by other Board members.

Motion carried by a 5-0 vote.

Appeal #2014-21. Wayne Pruitt of Pruitt Properties Ltd., is requesting a use variance from Planning and Zoning Code Section 1133.02 to allow a commercial storage and workshop use at 331 Lucca Street in an R-T (Traditional Residential) District.

Wayne Pruitt, Pruitt Properties, stated he wished to use the garage on Lucca Street as a warehouse/workshop for supplies he used in his rental business. Mr. Pruitt stated he made improvements to the building and cleaned up the property. Mr. Pruitt stated he would not generate a lot of traffic to/from the site.

Mr. MacMillan questioned how many people he employed as part of the business. Mr. Pruitt stated it would be him, his wife and maybe another handyman; his grandson also helped him. Mr. Pruitt stated he was affiliated with Wayne Siding, but he would not be bringing Wayne Siding into the property but would use the building for his own personal use. Mr. Pruitt stated he expected things like ladders, table saws, and landscape trailers would be stored at the site, but he indicated everything would be kept inside; there would not be anything stored on the exterior of the property other than an occasional truck during the day.

Mr. MacMillan questioned if the building was heated. Mr. Pruitt stated no.

Mr. MacMillan questioned if there was outdoor lighting. Mr. Pruitt stated he thought about adding exterior lighting to the back of the building; the front of the building was lit by a couple of street lights/poles. Mr. Pruitt stated if he did add lighting to the rear of the property, he would use LTD lights which would push down along the sides of the building.

Mr. Suchan questioned if the property was no longer considered a legal, non-conforming use since a use variance was being requested. Otherwise, the property would revert to a residential use. Mr. Dutton stated that was correct.

Mr. Emerson questioned the hardship conditions which existed. Mr. Pruitt stated the property/building was not kept in good condition before he purchased it.

Mr. Gaffey commended Mr. Pruitt for the job he did in cleaning up the property. Mr. Gaffey questioned if he, prior to purchasing the property, was made aware that the property was located in an R-T District. Mr. Pruitt stated no. Mr. Pruitt stated he was not aware of the past issues with the property until a resident in the area, Mindy Cavin, brought it to his attention. Mr. Pruitt stated he just could not imagine the property could not be used as a garage as that was what the building was constructed as. Mr. Pruitt stated it was not realistic to convert the garage into an apartment. Mr. Suchan stated the building was constructed in 1958—and there was no zoning in Wooster until 1968. Mr. Pruitt stated there were a lot of other buildings in the area that were the same way/being used in the same fashion.

Mindy Cavin, 324 Palmer Street, stated she did not want to use the term “she was against it”, because the property was previously a mess. Ms. Cavin stated Mr. Pruitt had done a beautiful job renovating the building, and it looked better than it ever had since she lived there, and she indicated she was impressed by his work. Ms. Cavin stated she was confident that the neighbors in the area would not have any problems with Mr. Pruitt and the upkeep of the property. Ms. Cavin stated her main concern was what would happen with the property when he left it and if granting the variance would set a precedent for anyone else. Ms. Cavin stated there were goals in that area of town, and the zoning was changed for a reason. Ms. Cavin stated there were other vacant, commercial structures in the area, and she was concerned with a precedent being set with those properties. Ms. Cavin stated the existing businesses around her had been grandfathered and were in existence before she moved to the area (AC Split Bolt, Leroy’s, Lamplighters, and a church). Ms. Cavin stated Hesser’s Warehouse, as she understood it, was not really a warehouse but was used as a private garage. Ms. Cavin stated there was also a property which advertised computer sales/service, and there was a sign posted with their hours/contact information, but she had never seen anyone coming in/going out of the house. Ms. Cavin stated Mr. Piatt had made a huge improvement to the building and removed brush from the property. Ms. Cavin expressed concern with the property once Mr. Piatt moved, and she hoped the residents of the area would have another opportunity to make its concerns known to the Board should another use be proposed for the property down the road.

Mr. Emerson questioned that if the property were sold, if the use would then become void. Mr. Dutton stated the use was specific to the application before the Board, but it could be used as a warehouse/same use without the Board’s approval. Mr. Dutton stated that any different use would need to come back before the Board if it was not permitted in the zoning district.

Ms. Cavin stated the property had not had a legal business operating from it for at least the past 10 years and was not supposed to have a commercial business operating from it.

Ms. Cavin expressed concern with the term “warehousing” as typically, that was used to describe manufacturing uses. Mr. Emerson noted that the applicant’s application read “storage/workshop”. Mr. Dutton stated the definition of warehouse was “*building used for indoor storage of goods and materials*”.

Mr. Emerson stated the history of the property was that it had been used by a construction company which was a grandfathered use. The property then became a detail shop which the Board felt was more intense, and the Board asked the applicant at that time to fix some of the issues with the property.

Karen McCrider, 135 Billiar Street, stated she agreed with Ms. Cavin’s statements but expressed concern with a 2-car garage which was constructed on a separate lot in her neighborhood. Ms. McCrider expressed concern with how that garage could be used, especially since it was for sale. Mr. Suchan stated there was a big difference between a building which was constructed in 1958 and a garage which was constructed as a garage.

Ms. Cavin stated there was also another garage, which had been used by a trucking company, and was similar to the property in question. Ms. Cavin stated the building was in disrepair but had been vacant for 15 years (Reeseman Trucking). Ms. Cavin stated she

would hate to see that by granting this variance that it would make it easier for that property to also be used for similar purposes.

Ken Suchan moved to grant the request of Wayne Pruitt for commercial storage and workshop use at 331 Lucca Street with the stipulation that no outside storage shall occur and that there be no overnight parking of any kind on the property.

Doug MacMillan seconded the motion.

Lukas Gaffey stated he struggled with the request because of the history of the building with the R-T zoning and setting a precedent. Mr. Gaffey stated he felt Mr. Pruitt would be an asset to the community by keeping the property clean. Mr. Gaffey also stated the conditions placed on the request by the Board would also make it difficult for someone else to occupy the building and “take it the opposite direction”. Mr. Gaffey voted yes.

Doug MacMillan agreed with Mr. Gaffey. Mr. MacMillan stated buildings like this, when left unoccupied, became an eyesore. Mr. MacMillan voted yes.

Ken Suchan voted yes. Mr. Suchan stated he believed the use was the best possible way of using the property and keeping it maintained for the good of the neighborhood which was in the overall spirit of the R-T District.

Pat Zoller voted yes. Ms. Zoller stated she felt it was the best use of the building, although she indicated she did not want to set a precedent.

Tate Emerson stated he was a little hesitant because of the hardship condition of it “not being created by your actions” but he believed from what the other Board members had said that it was the best for the neighborhood. Mr. Emerson stated he felt that with the Board’s conditions, the property would be maintained. Mr. Emerson voted yes.

Motion carried by a 5-0 vote.

Appeal #2014-22. Skyway Tower, LLC, representing New Par (dba Verizon Wireless), is requesting an area variance from Planning and Zoning Code Section 1169.05(b) to allow a gravel drive, Section 1173.04(a) to allow a wireless telecommunications tower taller than twice its distance from a residential dwelling and Section 1173.06(j) to allow a wireless telecommunications tower without lighting at 3873 Cleveland Road in a C-5 (General Commercial) District.

Robert Ferguson, United Acquisition Services, representing Skyway Towers/Verizon Wireless, stated the Planning Commission granted conditional use approval on September 24 for the cell tower. Mr. Ferguson stated three variances were now being requested.

Mr. Ferguson stated whenever a site was being considered, a zoning analysis was done. Existing structures, for co-location purposes, were determined. If no existing structures were found, they then looked for possible tower locations. They tried to keep it away from residential homes and uses, and they also tried to screen it. Mr. Ferguson stated that, in this particular case, a 150’ monopole tower was proposed (no guidewires) and would be located in a treed area behind Wayne Mutual Insurance Company’s building which was chosen to blend in as best as possible with the residential area. Mr. Ferguson stated there was a

clearing about 155' off the existing lot which was treed with coniferous and deciduous trees, 125' in each direction.

Mr. Ferguson stated the tower would not meet the 2x its height setback that the Code required to residential dwellings. The Code also required an asphalt driveway to be installed for all accessory uses. In this particular case, Mr. Ferguson stated the compound and the tower itself would be 155' off of the existing primary use/asphalt driveway; there was already a dirt road back there which was compacted. Mr. Ferguson noted that the Code also required that any tower over 100' be lit and, in this particular case, every carrier screened their towers against the FAA and had to submit FCC paperwork prior to final, regulatory approval. Mr. Ferguson stated what the FAA mandated was that any tower that was under 200' in a flight path did not need to be lit.

Mr. MacMillan questioned what the existing dirt road was used for. Mr. Ferguson stated there was a structure back there at some point, but was not sure what the structure was.

Mr. Dutton noted that a few residents expressed concern at the Planning Commission's September 24 meeting. Mr. Dutton stated, however, that he had not received any telephone calls specifically relating to the variance request.

Mr. Emerson stated his basic concern was with the setback, and he questioned if the tower could be placed elsewhere on the property where a variance would not be needed. Mr. Ferguson stated it was possible, but that they had capitalized on the existing clearing at the request of the property owner. Mr. Ferguson stated according to the surveyor, it was 326.3' from the residence to the north; 265' from the residence to the southeast, and 256.4' to the residence to the south. Mr. Emerson stated the tower would have to be located in the upper northwest part of the property to meet the regulations. Mr. Ferguson stated by locating the tower where it was proposed, they would avoid having to remove existing trees.

Mr. Emerson questioned the diameter of the base of the tower. Mr. Ferguson stated it was about 8'. Mr. Ferguson stated the general purpose of the setback was that a tower would fall like a tree so you needed to create a reasonable buffer between residential structures. Mr. Ferguson stated the towers were designed not to fall like trees and were designed to crumple upon themselves and were designed with stress points. Mr. Ferguson stated that, according to Engineered Endeavors (letter in file), in 40 years, they never had a molopole fall.

Mr. Emerson questioned the height of the trees in that area. Mr. Ferguson stated they estimated them to be between 85' and 115'. Mr. Dutton noted that the Planning Commission requested deciduous trees be added on the south side of the facility. Mr. Ferguson stated the tower would be 100% surrounded by trees and was thick in all directions.

Mr. MacMillan questioned how frequently the access road would be used. Mr. Ferguson stated after construction (30 days), it was usually used a couple of times each month. Mr. Ferguson stated it was mostly software driven with the communication equipment inside the pre-fabricated stone aggregate shelter; the diesel generator would be located inside the shelter as well.

Mr. Suchan questioned if the two houses (one due north/one due south) were in the C-5 District. Mr. Dutton stated yes, although he did not believe the property to the north was a residential dwelling.

Mr. Suchan stated he felt the site was unique in that the trees are gigantic, and you would not ever “see the thing”. Even if the tower fell, it would be stopped by something else. Mr. Ferguson stated with the placement of the tower, he tried to capitalize on the existing aesthetics and ask for variances. Mr. Ferguson stated towers needed to be along a highway/coverage route and needed to be in residential areas because of the way the network was involved and because most of the existing networks surrounded residential areas.

Mr. Emerson noted that Chapter 1173 read, *“To promote co-location of wireless telecommunication facilities in order to decrease the number of towers in the City”*. Mr. Ferguson stated the tower was designed for four carriers. Mr. Emerson questioned if there were other locations considered for the tower. Mr. Ferguson stated the transmission line to the north was considered, but transmission lines in today’s day and age did not work because of structural reasons (wind load, surface area on the antennae and weight), and transmission lines were not designed for that. Mr. Ferguson stated towers were constructed for co-location so that there were fewer towers overall.

Mr. Emerson questioned if there were any other towers “in the works” for the Wooster area. Mr. Ferguson stated yes—they were looking to replace the one behind the Fire Station that currently existed.

Doug MacMillan moved to approve the request of Skyway Tower LLC at 3873 Cleveland Road as proposed.

Pat Zoller seconded the motion.

Lukas Gaffey stated that, based on the uniqueness of the location and shielding of the tower from view and that it would be located behind a business, he felt the proposed road would be adequate for the type of service that it would be used for. Mr. Gaffey cited the structural letter which was submitted about the manner in which a tower collapsed as well and that, taking all of those into consideration, he would vote yes.

Doug MacMillan voted yes.

Ken Suchan voted yes, primarily because they were not cutting down any more trees.

Pat Zoller voted yes.

Take Emerson stated he did not find it necessary to pave the road, and adding a light would only draw more attention to the tower. Mr. Emerson stated he felt the applicant met the special conditions per the intent of the Code. Mr. Emerson voted yes.

Motion carried by a 5-0 vote.

Meeting adjourned at 6:58 p.m.

Tate Emerson, Chairman

Laurie Hart, Administrative Assistant