

BOARD OF ZONING APPEALS

January 21, 2016

The Organizational Meeting was held. Ms. Amanda Condon nominated Mr. Jim Behrens as Chairman and Mr. Jim Bartholomew seconded the nomination. There being no other nominations, the nominations were closed. All members present answered "yes" in favor; Motion carried.

Mr. Jim Bartholomew nominated Mr. Jim Callender as Vice-Chairperson and Ms. Amanda Condon seconded the nomination. There being no other nominations, the nominations were closed. All members present answered "yes" in favor; Motion carried.

The Board of Zoning Appeals convened in Courtroom No. 1 for their regularly scheduled meeting. Chairman Behrens called the meeting to order at 7:30 p.m. and asked the Secretary to call the roll. Members in attendance were Ms. Condon, Ms. Aston, Mr. Bartholomew, Mr. Callender and Chairman Behrens. Also in attendance were the Assistant Law Director, James Lyons; the City Planner, Lynn White; the Assistant City Manager, Doug Lewis, and the Secretary, Tina B. Pomfrey.

Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of December 17, 2015. There being none, he asked for a motion. Motion by Mr. Callender, seconded by Ms. Condon, to accept the Board of Zoning Appeals Meeting Minutes from December 17, 2015 as written. Chairman Behrens asked the Secretary to call the roll. On Roll Call, Ms. Condon, Ms. Aston, Mr. Bartholomew, Mr. Callender and Chairman Behrens answered "yes". Motion carried.

Mr. Behrens explained the procedures for this meeting and swore in those who planned on speaking for or against the variance requests.

The Chairman asked the Secretary to please read the notice:

NEW BUSINESS

REFUSAL NO. 2275

APPLICANT: Fung Sin Lam

DISTRICT: R-1 Single Family

LOCATION: 101 Morse Avenue

VARIANCE: 1137.03 (b) (2)

An application has been submitted by Fung Sin Lam, 182 Colonial Drive, requesting a variance to Section 1137.03 (b) (2) of the Painesville Codified Ordinances. Section 1137.03 (b) (2) requires a minimum of one enclosed parking space for every single family dwelling unit. The applicant proposes to demolish the existing garage that is in disrepair and not replace it. An aerial photo is enclosed for your review.

Mr. Ho Kwan Lee, also known as Andy Lee, was present on behalf of his mother, Fung Sin Lam, owner of 101 Morse Ave.

Mr. Behrens reviewed the information contained in the Board of Zoning Appeals packet. He asked if Mr. Lee had anything to add. Mr. Lee explained that the garage foundation needs to be replaced as it is crumbling and falling apart. He said he was of the understanding that a new garage would need to be built five feet from the property line and there is just not enough room in the yard to do it. Mr. Lee stated that they wish to take down the garage and install a small shed.

Chairman Behrens stated the paperwork provided to the Board shows a site plan with a structure that is three feet from the property line. Although the current setback is less than 5 feet, a variance was granted on this property in 1957 which allows a structure to be rebuilt at the same 3 ft. setback. Other than getting building and zoning permits, no other paperwork is required and an additional variance is not necessary.

Chairman Behrens asked if there were questions from the Board. Mr. Bartholomew asked who resides on the property. Mr. Lee replied that it is rental property. Mr. Bartholomew asked if the foundation in disrepair. Mr. Lewis answered that he did not know, however, the structure itself is leaning and being held up by 2' by 4's. That is what prompted the inspectors to issue the code violations.

Mr. Behrens asked Mr. Lee if he understood that the reason for the garage requirement is to store cars and yard supplies. Mr. Lee stated they had planned to replace the garage with a shed for storage.

Mr. Bartholomew asked what his concern was with building a garage. Mr. Lee replied the cost is the major concern. Mr. Bartholomew stated that not having a garage invites vandalism on the property.

Mr. Callender asked Mr. Lee if he received estimates to repair the garage and bring it into code compliance. He asked if it was practical to fix. Mr. Lee replied that his brother Kevin had some contractors look at it and it is not practical to repair the existing structure.

Mr. Bartholomew asked if a realtor was used to purchase the property. Mr. Lee translated the question to his mother who replied that she purchased the home online in 2006.

Mr. Bartholomew asked if the home has been rented consistently for 10 years. Mr. Lee replied yes, most of the time the property has been rented but it has slowly deteriorated.

Mr. Behrens said he was under the impression it was just purchased. He asked how the City became aware of the condition of the property. Mr. Lewis replied that the Community Development Department received a phone call stating that the garage was leaning. The inspectors visited the property and found that the garage was propped against a fence and the neighbor's garage.

Mr. Bartholomew asked where the homeowner lives. Mr. Lee replied that his mother lives on Colonial Drive in Liberty Greens. He asked if this is her only rental property. Mr. Lee replied no.

Chairman Behrens asked if there was anyone present to speak for or against the variance request. There being no one, he asked the secretary if there were comments from the neighborhood. The secretary replied no.

Mr. Lyons asked if the owner has done any maintenance of the garage in the past 10 years. Mr. Lee replied the interior of the house has had a lot of repair, however, the garage repairs have only been cosmetic.

Chairman Behrens asked for comments from the City. Ms. White replied she had no comments other than the recommendation that was placed in the packet.

Chairman Behrens asked for a motion. Mr. Callender moved, seconded by Ms. Condon, to grant Refusal 2275 variance as requested. On roll call, Ms. Condon, Ms. Aston, Mr. Bartholomew, Mr. Callender and Chairman Behrens answered "no". Motion failed, 5-0.

Mr. Lee asked what he would need to do if they demolished the structure. Mr. Lewis replied that a demolition permit would be required to remove the garage. Additionally, a new garage would have to be built and permits are required for construction. A new garage could be built on the current site of the garage, but if it was placed somewhere else on the property, those plans would need to be reviewed for setback requirements. Either way, building and zoning permits are necessary.

Mr. Behrens explained that the variance failed so either the garage would need to be torn down and rebuilt or the current garage will need to be replaced.

Mr. Lee asked if the garage could be repaired. Mr. Lewis replied that the Building Official is probably going to request engineered plans showing detail of the proposed repairs. Mr. Lewis suggested that Mr. Lee speak to the Building Official regarding what information to submit for review.

Discussion ensued. Mr. Lee asked how large a new garage must be. Ms. White replied that the standard size for a one car garage is 10 feet x 20 feet. Mr. Lewis reiterated that if Mr. Lee had any further questions, he could call the Community Development Department and the department would be happy to answer them.

OTHER BUSINESS

Chairman Behrens officially welcomed Ms. Rene Aston, appointed to the Board of Zoning Appeals following the vacation of the position by Ms. Kathy Miller, who moved from the City of Painesville.

There being no further business, the meeting was adjourned at 7:57 p.m.

Jim Behrens, Chairperson

Tina B. Pomfrey, Secretary