

BOARD OF ZONING APPEALS

May 15, 2014

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

MINUTES: The minutes of February 20, 2014 were approved as submitted.

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

NEW BUSINESS

REFUSAL NO. 2249

APPLICANT: Jim R. Peavey

DISTRICT: R-1 Single Family

LOCATION: 1018 North State Street

VARIANCE: Section 1127.06, 1127.06 (d) (1)

An application has been submitted by Jim R. Peavey, 1018 North State Street, requesting a variance to the Painesville Codified Ordinances. The applicant wishes to add a 960 sq. ft. addition to his 672 sq. ft. garage, bringing the total square footage of his accessory structure to 1,632 sq. ft. Section 1127.06 states the accessory structure must not exceed the square footage of the main use. Section 1127.06 (d) (1) also states that the square footage of an accessory structure not exceed 768 sq. ft. A variance of square footage is being requested.

Mr. Jim Peavey, 1018 N. State Street, was present for the meeting. Mr. Peavy explained that he is aware that the structure is quite large, and he is willing to reduce the size of the structure. He indicated, however, that a 24 ft. x 16 ft. structure as recommended by the City, is just too small for his needs. He explained that his property is 26, 000 square feet in total. The combined square footage of all the buildings on his property still cover only 10% of the land that makes up his property. He commented that the proposed structure may be large for the average- sized lot in the City, but not for his property.

Mr. Schaedlich asked the minimum size that Mr. Peavey is willing to go. Mr. Peavey replied that he would settle for a 24 ft. x 24 ft structure.

Mr. Bartholomew asked Mr. Schaedlich to explain the variance request. Mr. Schaedlich replied that Mr. Peavey is requesting a 24 ft. x 24 ft addition. The size of the addition will bring the total square footage of the structure to 1,248 sq. ft. That size is slightly larger than the house by about 30 sq. ft. Mr. Peavey is reducing the size of the original variance request by 400 sq. ft. He also has a second accessory building on his property.

Mr. Bartholomew asked how much square footage is permitted. Mr. Schaedlich stated that the Code only allows the main accessory structure to be 768 sq. ft. and the second accessory structure at 300 sq. ft. for a total square footage of 1,068 sq. ft.

Mr. Behrens asked Mr. Peavey what he plans on doing in the garage. Mr. Peavey replied that he races cars out at Thompson and has two vehicles to store and work on.

Mr. Schaedlich commented that when he visited the property, there were quite a few car parts in the yard and asked if there were plans to clean up the yard. Mr. Peavey replied yes, he just has nowhere to store those parts at this time.

Mr. Behrens asked for the recommendation of the City. Mr. Schaedlich indicated that the addition is 32 sq. ft. larger than the home. If Mr. Peavey reduced the size of the addition, the Board would have to determine if the reduction is sufficient. Mr. Bartholomew asked how far out of compliance Mr. Peavey's request is. Mr. Schaedlich replied that the house is 1,215 sq. ft. It is 33 ft larger than the single family home on the property. Mr. Schaedlich stated that the total permitted square footage is 1,068 and Mr. Peavey is requesting 1,408 sq ft., or 340 sq. ft. more than the permitted square footage for two accessory buildings.

Discussion ensued. Mr. Schaedlich mentioned that Mr. Peavey has a deep lot compared to all the other lots in the City. Mr. Bartholomew stated that the request isn't relative to the size of the lot. Mr. Schaedlich asked Mr. Peavey if he could consider a 20 ft. x 24 ft. addition in order to maintain a size smaller than the house. Mr. Peavey commented that in that case, he would still need to keep the shed. Mr. Schaedlich stated that this would reduce the square footage of the large building to 1,172 sq. ft. which is smaller than the dwelling on the property. Mr. Schaedlich added that he knows the Board has granted greater variances in the past. This would be 1,332 sq. ft. total square feet for the two accessory buildings on the property.

Mr. Lewis asked what the construction of the addition would be. Mr. Peavey replied concrete block, the same as the existing garage.

Mr. Horacek asked if a stipulation could be placed on the variance that if the smaller shed were ever to be taken down, that it could not be reinstalled on the property. Mr. Lyons commented that he supposed that stipulation could be placed on the request if it is more palatable to the Board. The non-conforming use stipulation in the Code comes into play then. More discussion ensued.

Mr. Behrens asked for any comment or correspondence from the neighborhood. There was none. Additionally, there were no comments from Mr. Lyons.

Mr. Horacek move to approve the variance request for 20 sq. ft. x 24 sq. ft addition with the stipulation that if the second accessory structure is ever destroyed or taken down voluntary, that it cannot be rebuilt on the property. Additionally, the garage addition should be the same construction as the existing garage on the property. Mr. Callender seconded the motion. On roll call, Mr. Bartholomew, Mr. Callender, Mr. Horacek and Mr. Behrens answered "yes". Motion carried, 4-0.

REFUSAL NO. 2250

APPLICANT: Steele Mansion Suites, LLC

DISTRICT: R-2 Multi-Family

LOCATION: 348 Mentor Avenue

VARIANCE: Section 1341.14 (a) & (e)

An application has been submitted by Steele Mansion Suites, LLC, requesting a variance to Section 1341.14 (a) & (e) of the Painesville Codified Ordinances. The applicant wishes to install a temporary sign at the property located at 348 Mentor Avenue. Section 1341.14 (a) & (e) of the Sign Code limits the display of a temporary sign to 60 days per calendar year. The request is to display the sign for a 5-month period to advertise the inn's opening.

Mr. Callender recused himself from the vote. Mr. Behrens communicated to the applicant that any vote by the Board must be unanimous in order for it to be passed. Mr. Behrens stated that because only three Board members are present, he wanted to give the applicant the option to table the variance request until there was a full Board.

Mr. Arthur Shamakian, 1664 North Shore Drive, Painesville Township, Ohio, was present for the meeting. Mr. Shamakian stated that he will take his chances and have the Board hear his appeal. He commented that at this point, there is light at the end of the tunnel, and the sign will answer a lot of questions that the public has been asking. The sign will eventually be taken down and be replaced with a permanent sign.

Mr. Russ Schaedlich, the Zoning Administrator, asked Mr. Shamakian when he expects the Inn to be open. Mr. Shamakian replied in August, when all the students start coming back to school. Mr. Shamakian said that once occupancy of the Inn is granted, the permanent sign will go up. Mr. Schaedlich also commented that he added an extra month to the sign on the variance request recommendation, but it could be shortened easily if needed.

Mr. Horacek asked Mr. Shamakian if he is familiar with the stipulations for installation of the sign. Mr. Horacek read the stipulations; that the sign shall be located as to prevent line of sight issues for pedestrian and vehicular traffic, especially for ingress and egress; that the sign shall be kept in good repair and that the temporary sign shall be replaced by a permanent sign prior to the Inn's opening. Mr. Shamakian answered that he has no problems with the stipulations.

Mr. Bartholomew asked if Mr. Shamakian even needs a temporary sign. Mr. Shamakian replied that there has been tremendous interest over the last three (3) years regarding the progress at the site. Mr. Shamakian stated that they would like to get a sign with a telephone number on it to jump-start the bookings at the Inn. Discussion ensued.

Mr. Bartholomew asked Mr. Shamakian what his conservative estimate is regarding lead time for bookings and occupancy of the Inn. Mr. Shamakian replied conservatively, 5 months, perhaps somewhere about November. Mr. Bartholomew questioned why two months of temporary signage would not work, as the City limits a temporary sign to 60 days. Mr. Shamakian replied that 60 days is not enough time to gather reservations. He indicated that weddings are booking now and it is imperative to get information disseminated to the public in order to insure the success of the business.

Mr. Bartholomew asked if the sign will be illuminated. Mr. Shamakian replied no, however, the temporary sign will look like the Lake Erie College sign, green, upscale, with class.

Mr. Horacek asked if it is correct, that the temporary sign would be installed in June and then be down by August. Mr. Shamakian replied yes.

Mr. Bartholomew asked why a banner couldn't be installed, not in the yard, but on the structure instead. Mr. Schaedlich indicated that a banner is much more difficult to maintain. Also, the placement and type of the sign is not in question, only the time frame. Furthermore, Mr. Schaedlich indicated that a banner or a sign on the structure itself is far from the street and might be difficult to see.

Mr. Horacek asked if the BZA has ever approved a longer time frame for any other temporary signs. Mr. Schaedlich commented that several churches and Lake Erie College had variances of up to 10 months additional time granted for temporary signs.

Mr. Bartholomew stated that he believed a permanent sign was already in place and asked why another sign is needed. Mr. Shamakian replied that there are approximately 11,500 cars that pass through the City daily and it is only the City residents that know about the Steele Mansion. Discussion ensued.

Mr. Schaedlich stated that if you were coming to the City from outside Painesville, you would not necessarily be aware of what is going on at the Steele Mansion.

Discussion ensued regarding what the temporary sign will contain and what audience it will reach. Mr. Brian Shamakian, 9780 Kile Road, Chardon, stated that the information on the temporary sign will be very informative to those that are not aware of the Steele Mansion. It will advertise a phone number that will allow those interested in the Mansion to simply call as opposed to "stopping by", interrupting the progress in renovating the property. More discussion ensued regarding time frame of sign variance. Mr. Horacek asked if a 30 day extension would be considered.

Mr. Callender, who excused himself from the discussion as a Board member, stated that he is opposed to the variance request being granted. He said that living next door to Steele Mansion, at 362 Mentor Avenue, he does not feel that the Mansion location is getting the recognition that it is still in a very peaceful, residential neighborhood. He stated that he is opposed of anything that degrades the residential nature of the area including large signs. He said he believes that the City has stretched the definition of an event. This sign should be six (6) sq. ft. per the Code. He indicated that he was really bothered by the City recommendation regarding permanent signage once the temporary sign is down. Mr. Callender said a permanent sign is already there and it exceeds six (6) sq. ft.. If it becomes part of the recommendation, the City is violating the Code with these recommendations. Mr. Horacek asked if Mr. Callender is referring to the stone as the permanent sign. Mr. Callender replied yes, and added that the previous owner received a variance for that previous sign that doesn't currently conform to the variance requirements that the previous owner received. Mr. Callender takes exception to the recommendation made to the Board advocating a violation. Everything that has gone on is detrimental to the residential area, and the City has not maintained the residential character of the area. He said that the Planning Commission ignored the wishes of over 60 people that objected to the property being converted into a party center. The City did not want to spend \$100,000 to demolish the property when they had the opportunity when it was condemned and now they are willing to let people do whatever they want to do.

Mr. Schaedlich replied that the size of the sign that the applicant is requesting is not limited to commercial areas when advertising special events. The proposed temporary sign meets the requirements for a temporary sign and can be installed in any zoning district. Mr. Lewis replied that "Grand Openings" count as event signage. Mr. Callender asked if they were in residential neighborhoods. Mr. Behrens asked Mr. Schaedlich to explain the comment made by Mr. Callender regarding only six (6) sq. ft. signs being permitted (on the property). Mr. Schaedlich replied that permanent signs are limited to six (6) sq. ft. in the residential districts, per the Residential Code. The Sign Code allows installation of temporary signage up to 64 sq. ft, 32 sq. ft. per side. Temporary signs are not limited to commercial areas only; they are permitted in all zoning districts. Mr. Callender said that that is only for special events and asked how many special events are held in residential neighborhoods. Mr. Behrens commented that he himself considers the opening of a business as a "special event". Mr. Lewis explained that churches are permitted in residential areas and they are granted permits for temporary signage often. Mr. Callender asked that, in doing the research on the signs, how many residential zoned properties actually installed temporary signs? Mr. Schaedlich replied that there have been a few and the issue is not that they are not permitted; qualifying properties just have not requested them.

Mr. Brian Shamakian indicated that no permanent sign has been added to the property, although there is an identification stone at the front of the property that will be retired and a permanent sign will eventually be installed. Mr. Lewis asked if the stone in the front of the property could be removed at this time. Mr. Arthur Shamakian replied that he guessed he could remove it, although he thinks it looks nice.

The Chairman asked for comments from the audience and the neighborhood. Mr. Richard Johnson, 368 Mentor Avenue stated he can see both sides of this issue. Although he is not opposed to a sign, he has not seen the proposed sign. Mr. Schaedlich said there will be one 4" x 8" ft sign, temporary in nature. Mr. Schaedlich held up a color rendering of the sign for Mr. Johnson to view. The Chairman asked if there were comments from the neighborhood. The Secretary stated she received an e-mail from Mr. Kip Smead, who was not able to attend the meeting. Mr. Smead owns the multi-tenant building across the street from the Steele Mansion. Mr. Smead stated that his tenants voiced that they believe 60 days is too

long for a sign this size. He said he was in agreement with his tenants he was not in favor of the variance request being granted.

Mr. Bartholomew asked if the size of the sign is out of compliance with the Code. Mr. Schaedlich replied no, only the amount of time the applicant would like to use it. He added that if it were a permanent residential sign it would be too large. A temporary sign can be placed anywhere in any district and the sign face can be can be 32 sq. ft on each side. The applicant is only going to use one side. Mr. Bartholomew asked the definition of permanent vs. temporary signage. Mr. Schaedlich replied that the time period for temporary signs is a 30 day period, twice a year, and the sign can be installed to run consecutively for a total of 60 days. Discussion ensued regarding the time period for the variance request.

Mr. Horacek moved to approve the variance request with the stipulations recommended by the City; that the sign shall be located as to prevent line of sign issues for pedestrian and vehicular traffic, especially for ingress and egress; that the sign shall be kept in good repair; and the temporary sign shall be replaced by a permanent sign prior to the Inn's opening. Mr. Horacek added a 30-day time extension. Additionally, the applicant has the right to return to the Board and ask for more time if needed, as part of the hearing. Mr. Bartholomew seconded the motion. On roll call, Mr. Horacek, Mr. Bartholomew and Mr. Behrens answered "yes". Motion carried, 3-0.

There being no further business, the meeting was adjourned at 8:30 p.m.

Jim Behrens, Chairperson

Tina B. Pomfrey, Secretary