

BOARD OF ZONING APPEALS

November 21, 2013

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 Ms. Condon, Mr. Bartholomew, Mr. Callender, Mr. Horacek and Chairman Behrens. Also in attendance were the Assistant Law Director, James Lyons; the City Planner, Russell Schaedlich; the Assistant City Manager, Doug Lewis and the Acting Secretary, Lynn White.

MINUTES:

Chairman Behrens asked for additions or corrections for the Board of Zoning Appeals Meeting of October 17, 2013. There being no comments, Chairman Behrens asked for a motion. Motion by Mr. Horacek, seconded by Mr. Callender to approve the minutes for the Board of Zoning Appeals Meeting of October 17, 2013 as written. On roll call, Mr. Bartholomew, Mr. Callender, Mr. Horacek, Ms. Condon, and Chairman Behrens, answered "aye". Motion carried.

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

NEW BUSINESS (Public Hearing Items)

Chairman Behrens asked the secretary to read the notice for the first item on the agenda.

REFUSAL NO. 2242

APPLICANT: Monica LeSuer on behalf of Bada Bing Pizza LLC

DISTRICT: B-3 Central Business District

LOCATION: 36 South State Street

VARIANCE: Section 1341.19 (b); 1341.11 (a) (b)

An application has been submitted by Monica LeSuer on behalf of Bada Bing Pizza, LLC, 36 South State Street, requesting a variance to Section 1341.19 (b) and 1341.11 (a) (b) of the Painesville Codified Ordinances. The applicant wishes to install a projecting sign at the above address in lieu of a front wall sign as permitted under Section 1341.19 (b) of the Sign Code. Projecting signs are not permitted under Section 1341.11 (a) & (b) of the Sign Code.

Ms. Monica LeSuer, 36 South State Street, explained that the building is very close to the sidewalk. The allowed flat sign on the front wall cannot be seen from State Street. They would like to have the projecting sign for more presence on State Street. It is difficult to find their location with the signage they currently have. There are signs on both sides of the building however they have had many people indicate they had trouble finding their location.

Chairman Behrens asked if there were any other comments. Mr. John Martin, 36 South State Street, stated the photo submitted of the sign is not an accurate representation of what will be put on the building. The sign is fixed and does not swing. The colors are brick red and white.

Chairman Behrens asked for questions from members of the Board. Mr. Bartholomew stated that his opinion is there needs to be some type of uniformity for signage in Painesville. He indicated that he is okay with the protruding sign, he agrees with the statement the location can be hard to find. Mr. Bartholomew commented that he does not like the hanging pizza as a sign. He asked if the applicant would be willing to work with the City to come up with a sign that is acceptable for this area in regards to aesthetics. Ms. LeSuer indicated they would be willing to work with the City with the design for the Downtown Area.

Mr. Horacek commented about the Staff recommendations. He asked if the applicant was familiar with the three listed. Ms. LeSuer stated that she is aware of the stipulations. Item number one states the sign will not swing. The installer has assured the applicant the sign will not swing. The sign will be securely fastened to the facade and will not be a hazard which takes care of item number two. Item number three indicates the sign shall be 10-feet of vertical

clearance. The question was asked if the sign would be placed over the door. The applicant responded that it will not be placed directly over the door; it will be centered on the front of the building.

Mr. Dan Smith, 8 North State Street, explained that his company owns the building at 36 South State Street. The applicants have been operating their business for the past three years. The building is located close to the street and signage for this site is difficult. The previous tenants have had signage on the side of the building. He stated that the current owners have gotten a real sense of their business and have gotten feedback from people. Their point of being close to the street is an issue. The building is difficult to position signage on. Mr. Smith stated they have similar shingle style signs on their other buildings. The Board of Zoning Appeals approved a sign of this nature for 3 South State Street which is very much in keeping with the architectural style of the Downtown. He added other locations that have this style sign include 58 North State Street, Gartman's, Nemeth's, Joughin's, and Bistro 70 are all within the Downtown area.

Mr. Callender stated the applicant has indicated the sign on the side of the building would be removed if the variance is approved. He asked if that would still be the case. The applicant indicated the other signage would be removed.

Chairman Behrens asked if there were any comments against the request. There being none, he asked if any correspondence had been received from the secretary. The secretary replied that nothing had been received. Chairman Behrens asked if Mr. Lyons had any comments. Mr. Lyons replied to Mr. Bartholomew's comment regarding the style of the sign. If the Board other members of the Board agree with the comment, then the Board will have to place some type of standard on the stipulation. The term "working with the City" does not create a definite stipulation for the applicant to follow. He suggested that the condition be the sign had to be satisfactory to the Administration if they are willing to accept that and hopefully the City would be reasonable.

Chairman Behrens asked the applicant if the stipulation suggested by Mr. Lyons was acceptable. The applicant replied yes. Chairman Behrens asked for comments from the Administration. Mr. Lewis added that the City is working on a comprehensive sign ordinance in looking at the entire code. Something will be developed that will be consistent in dealing with this type of sign. However, this has not been completed as of yet, which is why the variance is being requested.

Chairman Behrens asked if there were any other comments from members of the Board. There being none, he asked for a motion. Mr. Horacek moved to approve the request of Refusal 2242, granting a variance for a projecting sign at 36 South State Street with the following stipulations: 1) the projecting sign shall be securely fastened to the building so as not to present a hazard to pedestrians; 2) the sign shall be mounted so that it does not swing in the wind; 3) the sign has a minimum of ten-feet (10') of vertical clearance to ground level as provided per the Sign Code. Ms. Condon seconded the motion. Mr. Bartholomew moved to amend the motion to add the stipulation the applicant seek approval for the style of the signage from the Administration. Mr. Callender seconded the motion. On roll call for the amendment, Mr. Bartholomew and Mr. Behrens answered yes; Mr. Horacek, Ms. Condon, and Mr. Callender answered no. Motion failed, 2-3. On roll call for the approval of the variance, Mr. Callender, Ms. Condon, Mr. Bartholomew, Mr. Horacek, and Mr. Behrens answered yes. Motion carried, 5-0.

Chairman Behrens asked the secretary to read the notice for the second item on the agenda.

REFUSAL NO. 2243

APPLICANT: Matt Blatnik

DISTRICT: M-2 Industrial

LOCATION: 374 Chester Street, 445 and 435 N. St. Clair Street

VARIANCE: Section 1135.01 (a) (2) (c)

An application has been submitted by Matt Blatnik, of 158 Chester Street, requesting a variance to Section 1135.01 (a) (2) (c) of the Painesville Codified Ordinances. The applicant

wishes to install a fence that is 6 ft. in height within the front setback of the above referenced properties. Section 1135.01 (a) (2) (c) limits the height to 3 ft. within 20 feet of a right-of-way or public street. A variance of 3 ft. (fence height) is being requested.

Mr. Mathew Blatnik, 158 Chester Street, indicated that he would like to submit additional photographs to the Board for his request. He explained the pictures and the location in regards to his property. The reason for the fence is to eliminate kids playing on the lot and the illegal dumping that occurs there. He stated he would like to use the lot as an additional parking area for his body shop that is located down the street. Chairman Behrens asked for more detail on what is dumped on the property. Mr. Blatnik replied there has been bricks, mortar, odd and ends that people do not want in their backyards.

Chairman Behrens asked if there were any questions from members of the Board. Mr. Callender asked about the submitted aerial photo and the exact location of the fence. It was explained the fence would be located 2-feet off the sidewalk along the perimeter of the property.

Mr. Horacek asked what type of fence would be installed at this location. Mr. Blatnik replied it would be a chain-link fence.

Mr. Bartholomew asked if the applicant would be towing cars in and out of the lot. Mr. Blatnik commented that he was unsure at this point. There was concern that this lot would become a junk yard. The applicant explained that he does not store junk cars, he purchases recycled parts from junk yards.

Chairman Behrens questioned the storage of the vehicles and if this would be for the applicant's own use or for others to store vehicles. Mr. Blatnik stated that his intent is to use it for his own business, not for a separate business.

Chairman Behrens asked the applicant if he was familiar with the code requirements that were outlined in the Staff Report. He specifically mentioned the requirement of "any off-street parking area shall be paved with an asphaltic concrete or Portland cement concrete so as to provide a durable and dustless surface, shall be so graded and drained as to dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide for orderly and safe loading and unloading, parking and storage of vehicles". Mr. Schaedlich stated the entire area does not have to be paved, only the area where the vehicles will be parked. The other code requirements for screening and buffering were discussed in detail.

Chairman Behrens asked if there were any other questions. There being none, he asked if members of the audience wanted to speak on this request. There being none, he asked if there had been any correspondence on this matter. The secretary indicated that a phone call was received by Judy Warner, 355 Chester Street, who indicated she had no issue with the request.

Mr. Lyons questioned the appropriate type of screening that would be required for this property. Mr. Schaedlich responded that plant material would be necessary to provide adequate screening at this location. Mr. Lyons questioned the applicant on the number of cars he proposes to park on the lot and if that could be accomplished without having a variance for the fence height. The area in which the fence could be located at the property was discussed at length. It was determined that the applicant wanted as much room on the lot with the fence located near the sidewalk area. The applicant indicated that he plans to build a structure for his business on this lot in the future.

Chairman Behrens asked if the Administration had any comments on this request. There being none, he asked the Board if there were any other questions or comments. There being none, he asked for a motion on this request. Mr. Bartholomew moved to approve the request of Refusal 2243, granting a variance for fence height of 6-feet within the front setback at 374 Chester Street, 445 and 435 N. St. Clair Street with the code requirements listed on the staff report. Mr. Callender seconded the motion. Mr. Horacek asked what the City's position would be on the fence if a building were on the property. Mr. Schaedlich commented that it would depend on where the structure would be located and the fence may not be necessary.

On roll call, Mr. Callender, Mr. Bartholomew, Ms. Condon, Mr. Horacek, and Mr. Behrens answered yes. Motion carried, 5-0.

Chairman Behrens asked the secretary to read the notice for the third item on the agenda.

REFUSAL NO. 2244

APPLICANT: Joe Hahl on behalf of Juan Calvillo

DISTRICT: B-2 General Business

LOCATION: 338 Canfield Drive

VARIANCE: Section 1133.01 (b) (1)

An application has been submitted by Joe Hahl of J.G. Hahl & Co., of Perry, Ohio, requesting a variance to Section 1133.01 (b) (1) of the Painesville Codified Ordinances. The applicant wishes to build an addition to add a bay to an existing auto repair garage that will have a 9.5 ft. setback to residentially zoned property in lieu of the required 25 ft. Buffering in the setback is also required.

Mr. Schaedlich indicated the applicant has provided the Board with additional information that includes photos of what is being proposed and photos of the buildings across the street and additional site plan information.

Chairman Behrens asked if the applicant had additional information to present to the Board. Mr. Joe Hahl, 4025 River Road, Perry, stated Mr. Calvillo owns and operates an auto mechanic shop. He purchased the property in 2010 with hopes to expand. The business has matured and the desire is to have two lifts in the shop to be more efficient with his operation. In order to accommodate the lift and provide access to other areas in the shop the only configuration of the structure is the one proposed. Mr. Hahl explained the surrounding area in regards to the uses being commercial in nature with the exception of the west side where there is a residence. This side of the property would be provided with a buffer to include a fence. Mr. Schaedlich explained that the surround area has adequate buffering currently.

Mr. Lewis asked what is on the east side of the building that looks like an open vacant lot. Mr. Hahl indicated this would be where the parking would be located. There was discussion regarding the area and what type of business was in each of the structures. The vacant lot is needed for the parking area.

Chairman Behrens asked if there were any questions from members of the Board. There being none he asked if there had been any correspondence on this matter. The secretary indicated there was none. Chairman Behrens asked if Mr. Lyons had any comments. Mr. Lyons asked if the proposed structure would look as submitted in the proposal. Mr. Hahl responded yes.

Chairman Behrens asked if the Administration had any additional comments. Mr. Schaedlich explained that within his Staff Report there are five stipulations that he is suggesting for this request. He went through each of the five stipulations with the Board. There were no comments on the stipulations.

Chairman Behrens asked if there were additional comments from the Board. There being none, he asked for a motion. Mr. Callender moved to approve the request of Refusal 2244, granting a variance of the 25-foot setback requirement to 9.5-feet for the construction of an addition with the following stipulations: 1) applicant must provide buffer and screening from adjacent residentially zoned property; 2) the proposed bay addition shall not have any doors or windows on the side of the building facing the residential property to the west; 3) there shall be no repair work performed on vehicles, nor parking or storage of vehicles, equipment or materials of any type of the west side of the property between the proposed bay addition and the residential property to the west; 4) a six foot privacy fence shall be erected on or near the property line between Mr. Calvillo's property and the R-1 residential property to the west; 5) business hours shall be limited to 7:30 AM to 7:30 PM Monday through Friday and 9:00 AM to 6:00 PM on Saturday and Sunday. Mr. Horacek seconded the motion. On roll call, Mr. Bartholomew, Ms. Condon, Mr. Callender, Mr. Horacek, and Mr. Behrens answered yes. Motion carried, 5-0.

There being no further business, the meeting was adjourned at 8:20 p.m.

Jim Behrens, Chairperson

Lynn M. White, Acting
Secretary