

## BOARD OF ZONING APPEALS

December 17, 2015

The Board of Zoning Appeals met 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, 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.

**MINUTES:** The minutes of June 18, 2015 minutes were approved as amended.

Mr. Behrens explained the procedures for this meeting and swore-in those who planned on speaking for or against the variance requests. He also mentioned that the Board of Zoning Appeals has a vacancy in membership that has not yet been filled. He informed the applicant that he could table their request if he would like to wait for a full Board. The Assistant Law Director, James Lyons, articulated that the Board would have to vote in the majority to grant the variance request.

### NEW BUSINESS

#### REFUSAL NO. 2274

**APPLICANT:** Lake County Ohio Port and Economic Development Authority

**DISTRICT:** M-2 Industrial

**LOCATION:** 15-B-015-0-00-001 through 004;

15-B-015-0-00-021 through 15-B-015-0-00-028-0

**VARIANCE:** Section 1129.01; 1133.01(b); 1137.04; 1139.02

An application has been submitted by Lake County Ohio Port and Economic Development Authority, requesting a variance to Sections 1129.01; 1133.01(b); 1137.04; and 1139.02 of the Painesville Codified Ordinances. The applicant is requesting a lot split of several parcels that house existing buildings. The lot splits will create nonconforming lots and will require variances of lot size, setback and parking requirements.

Mr. Peter Zahirsky, LCPA, Oakdale Road, Cleveland Heights, was present, representing the Lake County Port Authority. Mr. Zahirsky said he has a signed letter from Mark Rantala, Executive Director of the Port Authority, regarding parking. Mr. Zahirsky explained that on the east side of Bank Street, at the site of the former Coe Manufacturing Administration Building, there is approximately 35 thousand square feet of open parking that would be made available to any of the tenants on the site that is being lot-split.

Mr. Behrens asked if a building on the site was torn down. Mr. Zahirsky replied that there was a building there at one time and there has always been a large paved area on the lot. Discussion ensued regarding exhibits of the parking area. Mr. Behrens asked if the Port Authority is going to remain the owner of the property (with the parking). Mr. Zahirsky answered yes, for the foreseeable future. He expressed that the former Administration building would not be occupied anytime soon.

Mr. Zahirsky explained that in 2009, the Coe Manufacturing Company was purchased by a company who donated the land to the City of Painesville. The City then transferred the land to the Lake County Port Authority. A 1.2 million dollar grant was secured from the State of Ohio to remediate the environmental contamination on the site. In addition, certain upgrades were done on the properties to make them usable again, such as new doors and utility systems. Now some of the buildings are occupied and there is interest in the other spaces. The Port Authority hopes to make this a center of employment again, to gain jobs and generate revenue for the City of Painesville. Mr. Zahirsky explained that the type of users attracted to the site tend to be smaller companies who need larger spaces at an affordable price. They will not have the density that Coe Manufacturing once had, so heavy car or truck traffic will not be generated. Mr. Zahirsky remarked that these buildings were constructed long before the current Zoning Code was developed and there is no room on the footprint to follow the setback requirements; the site is constrained by the layout. However, the Port Authority would like to make them into viable properties and make them beneficial to the City.

Mr. Bartholomew asked if any of the buildings on the site are currently occupied. Mr. Zahirsky replied that on the east side of the property on Bank Street is occupied by Dalamar Industries. They make large dip-tanks for the automotive industry. Another occupant is a company who receives manufacturing equipment and repurposes it. Mr. Bartholomew asked Mr. Zahirsky if he expects more tenants like this. Mr. Zahirsky replied he does not expect large operations, but similar uses or smaller and no heavy assembly.

Mr. Bartholomew asked if there will be any retail sales done at the site. Mr. Zahirsky replied no.

Mr. Callender asked if there are any plans to subdivide any of the buildings. Mr. Zahirsky said no, the lot split will separate the L shaped building on the site into two buildings. That structure is actually four buildings that have been added on to.

Mr. Behrens asked where the current occupants are parking. Mr. Zahirsky stated there is enough parking for the current employees at the building locations. Dalamar employees park in front of their building.

Discussion ensued. Mr. Zahirsky explained that the reason for the lot split request is the interest from companies willing to rent for a time with the option to purchase at the end of their lease. The lot splits will make it easier to negotiate a sale later on.

Ms. Condon asked how many parking spaces are available. Mr. Zahirsky said he did not measure out the exact number required by the City, however, there is approximately 10,000 sq. ft. of parking available.

Discussion ensued regarding the parking requirements. Ms. White stated the City parking Code requires that enough parking spaces need to be provided at the site of the operation's location. There are 14 parking spaces for parcel number one. Under the Code, 32 spaces are required for the size of the building based on its use. They have 14 spaces proposed but they need a variance of 18 spaces. The variance amount could be located on the additional shared parking that they are proposing because they own both of the parcels, and are able to create that agreement. More discussion ensued. Mr. Behrens stated that the parking will not become an issue until all the buildings have tenants occupying them.

Ms. White detailed how she determined the parking requirements; one space per every 1,000 sq. ft. of warehouse space. Coe Manufacturing had over 200 employees at height of employment and had adequate parking for everyone. The density (of employment), depending on the use of the building, is what will determine the actual number of spaces required.

Ms. Condon asked if any of the future tenants will have employees work on shifts. Mr. Zahirsky replied that it is hard to speculate but with regard to the company that is interested in the space at this time, Pinnacle Recovery Services, the conditions of the Conditional Use that was approved by the Planning Commission has set the hours of operation from 8:00 am to 4:30 pm, so they can only work one shift a day. The other companies that are already in the buildings do not work shifts and already have sufficient parking.

Ms. White asked if anyone is utilizing the parking lot by the office building now. Mr. Zahirsky stated no. Mr. Behrens asked Mr. Zahirsky if the Port Authority owns the office building. Mr. Zahirsky replied yes.

Mr. Callender commented that there is an easement shown on the exhibit between the L shaped building and parcel one. There is an unoccupied area by the building as well. Mr. Callender asked if that location is also an easement and if parking is available in the unoccupied area. Mr. Zahirsky replied that that area has an entrance with large overhead doors, so it is not available for parking.

The Chairman asked if there were comments from the audience. Mr. Anthony Cimaglio, 477 Owego Street, asked, if the property is split, is the Port Authority able to rejoin it if needed. Mr. Zahirsky replied if a large enough use came along that needed all 100,000 square feet, perhaps it could be done, but he does not see that happening. Most industries looking for that kind of space want it all under one roof and not in three separate buildings. He added that is why this property is desirable to the smaller company looking for larger space. Mr. Cimaglio also inquired on the length of the leases for the property. Mr. Zahirsky stated that leases are negotiated on a case by case basis, but the existing lease is five to seven years, negotiated before he arrived. Mr. Cimaglio additionally questioned the tax revenue the property draws. Mr. Zahirsky stated vacancies do not pay property tax, however, if the property is occupied, the occupant pays property tax and income tax on the business.

Chairman Behrens asked if there was correspondence from the neighborhood. The secretary replied no.

The Chairman asked for comments from Mr. Lyons. Mr. Lyons asked Mr. Zahirsky to explain the role of the Port Authority; what their mission is and who appoints the Board. Mr. Zahirsky explained that Port Authorities in Ohio have been given strong economic development powers by the State Legislature. The Port Authority here functions as the economic development organization for Lake County. The organization is comprised of a seven member Board of Directors. Five members have private sector backgrounds and two have public sector backgrounds. All are appointed by the Lake County Commissioners. Under State law, the Port Authority is empowered to work in the areas of recreation, transportation, education, economic development, increasing governmental operations efficiency, research and culture. The main focus is job creation, attracting new business to the County to improve the quality of life to attract more residents. Mr. Zahirsky said the reason we have these properties so that we can work more quickly, at the speed of business which makes us really good at dealing with interested parties.

Mr. Lyons also added they do not have to do competitive bidding to sell these properties and can sell it like it is a private business. They have pretty broad legal authority to do economic transactions.

Mr. Zahirsky reiterated that the Port Authority does not have taxing abilities so they cannot grant abatements to companies. Abatement approval is left to the County or the City.

Mr. Lyons stated that Chairman Behrens sent an e-mail to the City last week regarding his thoughts on the Planning Commission's consideration of the Conditional Use request at 735 South State Street and he wanted to make the Board aware that the Conditional Use request was withdrawn by the applicant. He informed the Board that this is a stand-alone issue and the proposed business is no longer a factor.

Mr. Zahirsky added that a requirement of the 1.2 million Ohio Job Read Site grant is that any properties remediated by the grant funds must remain a commercial or industrial use and the Port Authority has expended most of the funds remediating the property.

Mr. Lewis stated the City is recommending approval of the request. He stated that he examined all the properties and they are in need of upgrades to bring them back to operable condition. Mr. Lewis declared that this is one of the benefits of the Port Authority being involved in this process. At the end of the seven year lease agreements, these buildings will have been improved. Various permits have been issued for new electric throughout the buildings, and one of the prospective clients is proposing to install a new roof. All the various improvements are a future benefit should these companies decide not to purchase the building and to lease again. The role of the Port Authority is a very important one for the City because it is bringing some of the smaller business into the City that are looking to expand. Given the layout of the current buildings, it is important they get approval of the lot splits and setbacks so that they can put these buildings back to use.

Chairman Behrens asked if all the improvements would be done at the cost of the tenants. Mr. Zahirsky replied that when the first building was sold, the Port Authority Board made the decision to reserve those funds for use toward the rest of the properties. This division is so important because, as one piece is occupied, the income stream from the tenant allows improvements to be made to another space on the property. Mr. Zahirsky acknowledged that the grant money was spent rather quickly and since resources for the Port Authority are limited, improvements are done piece-meal.

Chairman Behrens questioned the type of clean up that was done. Mr. Zahirsky explained that on the west side of Bank Street, solvents from the Coe Manufacturing operation had deteriorated part of the concrete pad (of the building). He said the majority of the contamination was on the east side of Bank Street where a foundry was located. The site had to be excavated and soil was removed from a void that was 150 feet wide and 50 feet deep. It then was remediated with clean fill dirt. The majority of the grant funds were spent on this improvement.

Ms. White responded to Mr. Bartholomew's previous question regarding retail use. She stated that retail would not be a permitted use, so the need for additional parking for retail would not be necessary. The property currently consists of twelve lots of record. If the Port Authority had not requested the lot split, three separate entities could occupy the buildings without any variances because, under the Zoning Code, they are grandfathered. However, because a lot consolidation and subsequent lot splits have been requested, the properties must conform to the Code as it is today. Ms. White mentioned that the Board was given information regarding the parking setbacks with buffering requirements between industrial and residential property. In this instance, two separate variances are being requested. The first variance request is for the lot split and setback variances. The second is for the number of parking spaces. Ms. White recommended approval of the first variance request. Her recommendation for the parking variances was also approval with the condition of having a shared parking agreement in place.

Chairman Behrens thanked Ms. White and all those who worked to put this information together. He called for a motion. Ms. Condon moved, seconded by Mr. Callender, to grant Refusal 2274 variance request for area, width and setbacks. On roll call, Mr. Callender, Mr. Bartholomew, Ms. Condon and Mr. Behrens answered "yes". Motion carried, 4-0.

Ms. Condon moved, seconded by Mr. Callender, to grant Refusal 2274 variance of the parking space requirements with the condition that a shared parking agreement be put in place. On roll call, Mr. Bartholomew, Ms. Condon, Mr. Callender and Mr. Behrens answered "yes". Motion carried, 4-0.

There being no further business, the meeting was adjourned at 8:11 p.m.

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Jim Behrens, Chairperson

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Tina B. Pomfrey, Secretary