

## BOARD OF ZONING APPEALS

April 15, 2010

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

**MINUTES:** The minutes of February 18, 2010 were approved as submitted.

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

### NEW BUSINESS

#### REFUSAL NO. 2182

**APPLICANT:** Karen McLeod for Extended Housing, Inc.

**DISTRICT:** R- 2 Multi Family Residential

**LOCATION:** 15A-004-0-00-039

**VARIANCE:** Section 1129.01

An application has been submitted by Ms. Karen McLeod of Extended Housing, Inc., requesting a variance to Section 1129.01 of the Painesville Codified Ordinances. Extended Housing, Inc. is proposing to build a 17 unit residential housing facility, McKinley Grove. Section 1129.01 establishes a minimum square footage requirement for a one bedroom unit in an R-2 district as 750 sq. ft. The proposed units are 600 sq. ft. A variance of 150 sq. ft. per unit is being requested.

Ms. Karen McLeod, 10110 Meadow Drive, Chardon, Ohio, was present for the meeting. Ms. McLeod thanked the Board for volunteering their time to the City of Painesville. She introduced Dominic Durante who is the architect of the project. Ms. McLeod explained that she has been working on this project for supportive housing for some time now. It has been over 1 year in development and meets the gap between 24/7 services of a group home and those in independent living units or condos throughout Lake County. This particular project will house single adults in one bedroom units. Ms. McLeod stated that 99% of the target audience for these units will be single people coming out of group homes. These tenants will have failed at single living. This type of housing saves the City and the County money. McKinley Grove will be providing housing for those in need within Lake County. In addition, those who are homeless and mentally ill who are engaged in community outreach programs will also be considered for this facility. Ms. McLeod stated that she has included in the Board's packet four separate documents that corroborate the statistics/facts that she cited. Ms. McLeod said she personally participated in the Corporation for Supportive Housing Institute in Columbus. The office was opened in 2007 and serves the State of Ohio. This 17 unit project is priced at \$2 million dollars. Currently there is about \$900,000 dollars committed to the project, but it is still a few hundred thousand dollars short.

Ms. McLeod indicated that Extended Housing is willing to increase the unit size to 650 sq. ft. for 15 units and to 700 sq. ft. for the remaining two units. The total number was reduced from 20% variance to a 12.5% variance. Common areas are 1800 sq. ft. If you divide that 1,800 sq. ft. by the 17 units and add it to the unit square footage, it adds up to more than 750 sq. ft. Under the guidelines of the Supportive Housing Model, Extended Housing also does not want the units to be too big. Smaller units allow the residents, particularly those with mental illness, to congregate more often in common areas, thus engaging with the staff. If big units are built, those residents may never leave their apartments and socialize with others. It speaks against the Supportive Housing Model. Ms. McLeod also addressed the longevity of the project. She indicated that funders have a restrictive covenant. There is the intent to operate on the property for 30 years however, Extended Housing is not about selling the building because its term is up. Extended Housing will continue on the mission because the need is not going to go away.

Mr. Behrens asked who would qualify for this program. Ms. McLeod replied that applicants would qualify through approval from a "housing team" that meets at the Lake County Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board. The team consists of members of Extended Housing, Pathways, Signature Health, Neighboring Mental Health Services, along with ADAMHS Board members. Together, they target those who fit the criteria.

Mr. Behrens asked how closely this plan resembles the South State Street plan that was presented a few years ago. Ms. McLeod said it is the same plan.

Ms. McLeod stated with this particular plan, a public meeting was held at St. Mary's. People who attended asked questions and listened to what was said. The tone of the meeting was very open and cordial. Ms. McLeod said there will be no residents who are child molesters, or anything of that nature. She commented that Extended Housing, Inc's reputation will be on the line. The organization will not place those in the facility who would be disserved by being there.

Mr. McElroy asked when the property was designed, was there a specific analysis to determine operational expenses vs. the number of units built, and if so, what was the minimum number. Ms. McLeod replied the minimum number of units is 17. Discussion ensued with regard to operating expenses. Ms. McLeod said there is a lot of cost for support and operation of the property. Extended Housing will have an on-site housing coordinator present from 11 am to 3 am.

Mr. Dominic Durante, 10820 Mitchell's Mill Road, Chardon, Ohio, architect for the project, reviewed the plan with the Board. He indicated that access to the property will be through Railroad Street. The building will be centered in the middle of a triangle shaped site. It far exceeds the minimum requirement of 10% open space, with a lot of space for gardening, walking etc. There is a total of 16,700 sq. ft. for the entire building with 34 parking spaces for the facility. St. Mary Church will also have access through the site.

The architecture is Western Reserve in style, with columned porches at the front and rear of the building. The yard will be nicely landscaped. Mr. Durante passed out a floor plan of the building to the Board. Mr. Durante commented that although the individual units are smaller than what the code calls for, there is additional square footage available in the form of common space within the building. The common rooms will include a resident lounge, library and meeting rooms, kitchen with an attached bathroom and laundry rooms. They are significant common spaces. He stated that this design is not typical in apartment buildings. And even though the units are smaller than what is permitted under the code, they are really nice and spacious.

Mr. Behrens state that the problem is not the square footage of the entire building but the square footage of the individual units. Mr. Durante replied that the hardship created is due to the clientele that will be served by this facility. They have need of the common, social areas and less need for large apartments.

Mr. Schaedlich asked Mr. Durante if he could clarify the total amount of common areas. Mr. Durante replied that the common area in total is about 1,800 square feet without including the bathrooms, which add another 75 square feet to the total.

The Chairman asked if anyone wanted to speak on behalf of the variance request. Mr. Neil Conway, 10930 Johnnycake Ridge Road, Painesville Township said that this is an unnecessary hardship for Extended Housing. The cost of this project is quite high and only gets higher with more delays. Mr. Conway stated that the size of the units is not as small as one would think. He stated he traveled to England when he was younger and the sizes of the flats in England are even smaller than these proposed units. Mr. Conway commented that the site is quite nice, with and ingress and egress that is very private. He stated that under this plan presented by Extended Housing, the common areas are used for a specific purpose, for socialization; however, if in 40 or so years, this facility is no longer used by Extended Housing, the existing common areas give this building greater option for use in the future.

Mr. Lyons asked Mr. Conway if he is testifying on behalf of Extended Housing or giving arguments on behalf of Extended Housing. Mr. Conway replied that he is testifying to the factual arguments.

Mr. McElroy asked when the plans were developed for the project. Ms. McLeod replied the project began in May 2008 with development of the project evolving to accommodate the site.

Mr. McElroy asked at what point in time did Extended Housing engage the services of the architect. Ms. McLeod replied a little over one year ago. Mr. McElroy asked Mr. Durante if he aware of the zoning restrictions of the site. Mr. Durante replied yes. Mr. McElroy asked why the organization waited to obtain authorization for a variance request that historically is not approved. Ms. McLeod replied that when Extended Housing met with the City about a year ago, Rita McMahon mentioned that the common area would be an argument for a smaller unit. Ms. McLeod said since that meeting, she always thought more common space would justify the granting of the variance.

Mr. McElroy asked if any funding was provided for the planning and the development of the project for Extended Housing. Ms. McLeod replied yes, the Cleveland Foundation provided \$50,000 for architectural services and Lubrizol contributed \$5,000. Additionally, several other foundations contributed.

Mr. McElroy stated that earlier in the meeting, Ms. McLeod mentioned that the fundraising process was still in process. He asked if the fundraising will be needed later on (in the project). Ms. McLeod stated yes, the purchase agreement is a 10 month option to buy with extensions. She said they will not break ground until they have all funding in place. Mr. McElroy asked if it is possible that there may be a delay. Ms. McLeod said yes, possibly, and Extended Housing may lose the site. That would mean that all the funds raised would return (to the entities that contributed).

Ms. Bacho asked for comments from the audience. Ms. Patricia Kidd, 137 Colonial Drive, was present on behalf of Extended Housing, Inc. Ms. Kidd is the Executive Director of the Fair Housing Association. Ms. Kidd stated that Ms. McLeod is looking to do something to cater to the specific need of a certain audience, the mentally disabled community. She stated that the variance request is a reasonable accommodation request, in her opinion. Ms. Kidd stated that it is also her opinion that this request is not

a substantial request at 10%. And this building, should it someday cease to be used for this purpose, can be reasonably modified.

Mr. McElroy asked Ms. Kidd if the Fair Housing Resource Center is a non-profit, government agency. She replied yes. Mr. McElroy asked who funds the organization. Ms. Kidd replied HUD.

Mr. Brent Roebuck, 333 Fanbrook Drive, Painesville Township, stated that Ms. Kelly Leoni and Ms. Kim Roebuck are owners of 382 Railroad Street, and he is speaking on their behalf. Mr. Roebuck stated that section 1129.01 of the Painesville Zoning Code is meant to protect those who are seeking housing and the neighborhood. He stated that 600 square feet is the size of a large hotel room. Mr. Roebuck said that situations change and should this property change hands without being built to the minimum standards, then the burden gets shouldered to the community and to the City. Mr. Roebuck commented that he does not have a quarrel with Extended Housing or their cause; however, there should be no need for a variance. He stated that he believes maintaining the integrity of the ordinance is good for the occupants and good for the City.

Mr. Lyons stated he had a procedural question. He asked what is being requested at this time, the original proposal or the amended proposal.

Ms. McLeod replied by asking the Board if they would consider the amended request that was offered as a compromise. Mr. Lyons stated the Board first would have to vote to amend the request. Additionally, he indicated that the City Administration would have to acknowledge that the report that was presented to the BZA by the City are the facts and is part of the record under oath.

Mr. Schaedlich stated that he has worked with Extended Housing on several proposals over the last couple of years. He indicated that they have talked about the size of the units and let them know that they would have to go before the BZA if they did not meet the square footage requirement. Additionally, Mr. Doug Lewis stated that the City encouraged Ms. McLeod to present a plan that did not require any variances if at all possible. Extended Housing did address a setback issue in one of the original plans. Mr. Schaedlich commented that Extending Housing has met all the requirements but the square footage requirement. Ms. McLeod indicated that she could not come before the Board until this point because site control was needed.

Discussion ensued with regard to square footage measurement. Mr. Durante said the square footage measurements are made from the inside walls of the unit. Mr. Lewis indicated that Section 1129.01 of the Zoning Code cites floor area as the square footage area. More discussion ensued regarding inside square footage vs. outside square footage. Discussion involved where the floor area measurement should be taken from.

Mr. Lyons also mentioned that Ms. Patricia Kidd made a statement that referenced the ADA and reasonable accommodation. He indicated that the City is not in a position to give a legal brief about the ADA. He indicated that the Board can ask for the position of the City, however, he is not in a position to answer at this time. Ms. Kidd responded that she encouraged the Board, under the Fair Housing Act, to grant the variance.

Mr. Behrens move to amend the original variance request from 17 units at 600 sq. ft. to allow for 15 units at 650 sq. ft. and 2 units at 700 sq. ft. at the request of the applicant. Mr. Horacek seconded the motion. On roll call, Mr. Behrens, Mr. Horacek, Mr. McElroy and Ms. Bacho answered "yes". Motion carried, 4-0.

Mr. Horacek moved to approve the variance request as amended with the condition that 1, 800 sq. ft. of common space be included within the building. Mr. Behrens seconded the motion. On roll call, Mr. Horacek and Mr. McElroy answered "yes". Mr. Behrens and Ms. Bacho answered "no". Motion failed, 2-2.

Mr. Lyons clarified to Ms. McLeod and Mr. Durante that under the BZA code, 3 people must approve of the variance in order for it to be approved. The motion that passed was amending the variance request, however the actual amended request was tied, with a vote of 2-2. Under the statutes of Painesville, the BZA must pass a variance with no less than 3 votes or the variance request fails.

Ms. McLeod asked if the procedure to appeal the decision is through the Court of Common Pleas.

Mr. Lyons answered yes and an administrative appeal would need to be filed within 30 days of the written position of the City being delivered to them.

Mr. Durante asked if there was an informal workshop procedure in order to discuss this. Mr. Lyons stated that he could speak to Russ Schaedlich or Doug Lewis to understand what issues need to be responded to. You then can return to the Board with a substantially different request, as determined by the BZA, and request that it be heard.

There being no further discussion, the meeting was adjourned at 9:10 pm.

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Julie Bacho, Chairman

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Tina B. Pomfrey, Secretary