

## BOARD OF ZONING APPEALS

April 19, 2012

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. Horacek and Ms. Waytes. 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 March 15, 2012 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.

### TABLED BUSINESS

#### REFUSAL NO. 2208

**APPLICANT:** Orwell Natural Gas Company

**DISTRICT:** Business/Residential

**LOCATION:** 933 Mentor Avenue

**VARIANCE:** 1127.06 (d) (1)

An application has been submitted by Orwell Natural Gas Company requesting a variance of Section 1127.06 (d) (1) of the Painesville Codified Ordinances. Section 1125.04 #83 defines structure, in part, as anything with a fixed location. Section 1131.02 establishes the front setback at 65 ft., based on the setback maps of the City. Section 1127.06 (d) (1) establishes setbacks for accessory structures as the same as the main structure. The applicant installed a natural gas metering system within the front setback of the property, 6 ft. into the front setback. A variance of 59 ft. is being requested.

The variance request remained on the table.

#### REFUSAL NO. 2209

**APPLICANT:** Orwell Natural Gas Company

**DISTRICT:** Single Family Residential

**LOCATION:** 521 Mentor Avenue

**VARIANCE:** 1127.06 (d) (1)

An application has been submitted by Orwell Natural Gas Company requesting a variance of Section 1127.06 (d) (1) of the Painesville Codified Ordinances. Section 1125.04 #83 defines structure, in part, as anything with a fixed location. Section 1131.02 establishes the front setback at 100 ft., based on the setback maps of the City. Section 1127.06 (d) (1) establishes setbacks for accessory structures as the same as the main structure. The main structure was built with approximately a 62 ft. setback. The applicant installed a natural gas metering system within the front setback of the property, 6 ft. into the front setback. A variance of 56 ft. is being requested.

The variance request remained on the table.

### NEW BUSINESS

#### REFUSAL NO. 2223

**APPLICANT:** Lake Erie College

**DISTRICT:** R-1 Single Family

**LOCATION:** 391 West Washington Street

**VARIANCE:** Section 1135.01(a)(1)(B), 1135.02 (c)

An application has been submitted by Lake Erie College, requesting a variance to sections 1135.01 (a)(1)(B) and 1135.02(c) of the Painesville Codified Ordinances. The applicant wishes to install gates that are 10.6 ft. in height within the front setback and nine (9) ft. from the front property line instead of the required 12 ft. A variance of 7.6 ft. (fence height) is being requested and a setback variance of 3 (three) feet is being requested. Additionally, the applicant wishes to install identification signs on these gates. The number of signs is limited by a previous variance to 5. The size of the signs are limited to 16 sq. ft. (size) within an R-1 Single Family District. The applicant is proposing two (2) additional signs to the existing 5. A variance of 2 signs and 3.25 sq. ft. is being requested.

Mr. Phil Libassi, of Westlake Reed Leskosky, was present for the meeting. Mr. Libassi clarified that the "gates" that are mentioned in the City's report to the Board is not a swinging gate but a brick wall. The signs will be posted on the brick to enhance the walls and create a focal point to the front entrance of the college

Mr. Bartholomew asked why the 12 ft required setback was difficult to achieve. Mr. Libassi explained that the existing drive that runs beyond it is close to the proposed structures and the college does not want to disturb the drive; they would like to leave it intact.

Mr. Behrens questioned why the additional 3 ft. setback at the front of the entrance becomes an issue with the driveway.

Mr. Joshua Haney, of Westlake Reed, Leskosky, clarified that moving the wall 3 ft. into the property can be accomplished without affecting the physical road, however, as you enter the drive, the directional signage will happen very quickly and may not be seen, creating a dangerous situation.

The Chairman asked if there were any comments from the audience. There being none, he asked the secretary if there was correspondence from the neighborhood. The secretary replied no. Mr. Behrens asked Mr. Lyons if the variance request should be considered as 4 separate issues. Mr. Lyons replied that perhaps the Board should ask the applicant how they would like the Board to consider it.

My Libassi stated the college would like it heard as one proposal. Discussion ensued regarding the placement of the entry drive and sidewalk. There was concern from the Board regarding sight requirements with regard to the setback. Mr. Bartholomew was concerned that leaving the property might be visually difficult with signage so close to the setback. Mr. Lyons questioned the distance of the pavement from Mentor Avenue to the proposed gates and how far from the proposed location of the gates to the edge of the asphalt to the existing east - west drive to the rear of the gates. Mr. Libassi replied it is nine feet from the back of the sidewalk to the front edge of the gate posts and possibly 25 feet from the pavement of the existing drive. More discussion ensued. Mr. Libassi stated that the college is okay with the required 12 feet setback for the signs if the City is concerned, but he assured the Board that Lake Erie College would not create an unsafe condition. More discussion ensued. Ms. J. Merrick of 37 Levan stated that the entrance to the college off Mentor Avenue that is closest to Levan Street is a problem. Mr. Libassi stated that that particular entrance will be closing after the new entrance is finished.

Mr. Lyons indicated that the Board would be voting on the remaining three variance requests. Mr. Bartholomew moved to grant the variance request for entrance gate height, number of signs and square footage of those signs. Mr. Horacek seconded the motion. On roll call, Mr. Horacek, Ms. Waytes, Mr. Bartholomew and Mr. Behrens answered yes.

The applicant withdrew the front setback variance request for the entrance gates.

**REFUSAL NO. 2224**

**APPLICANT:** Ruta Greiner for Lake Erie College

**DISTRICT:** R-1 Single Family

**LOCATION:** 167 West Washington Street

**VARIANCE:** 1341.14(e)

An application has been submitted by Ms. Ruta K. Greiner of Lake Erie College, requesting a variance to section 1341.14(e) of the Painesville Codified Ordinances. Section 1341.14 (e) limits temporary sign displays to 30 days. The applicant wishes to display temporary signage for 18 months at the property located at 167 West Washington Street, the site vacated by Harvey High School.

Mr. Behrens stated that the subject before the Board regarding this issue is the sign itself, not the use of the property.

Ms. Ruta Greiner, Graphics Manager for Lake Erie College (LEC), was present for the meeting. She indicated that the purpose of the signage is to make the public aware of the ownership of the property. Additionally, the college would like to make the public aware of the future use of the property. The Code will not allow sign installation for any length of time, so a variance is being requested. The sign is temporary and will be landscaped to look semi-permanent, thus avoiding a "yard sign" look within the City.

Mr. Horacek stated that it is in the College's interest to keep the sign looking nice. Ms. Greiner replied yes it is and the sign will be replaced should it become tattered or torn. Mr. Schaedlich replied that there is a stipulation in the recommendation that addresses the condition of the sign.

Mr. Bartholomew stated that he is curious why one month is the allowed time for the sign, why is the college asking for 18 months. Ms. Greiner replied that the college will not be breaking ground in one month; it will be probably 18 months or so before they break ground and that is why they are asking for a variance for 18 months. Mr. Bartholomew stated he does not understand the excessive length of time for the variance request and wondered what is so compelling about this request that it should be granted. Ms. Greiner replied that the installation of the sign is to identify who the property owners are and to inform the public of the positive change to the City of Painesville. Ms. Greiner stated the sign will project a socio-economic positive to the environment; it projects expansion to a lot that otherwise appears abandoned.

Mr. Bartholomew asked if the dates for development will appear on the sign. Ms. Greiner stated that the sign itself is still in discussion but there will be a link to the website where information will be posted. She stated that she could not commit for Lake Erie College; she does not know exactly when they plan to break ground. Mr. Bartholomew stated he thinks that a variance for 18 months is too long.

Mr. Schaedlich state that nothing in the City's Sign Code addresses upcoming development or construction signs; the Code only deals with specific events. There is not really anything within the Code to deal with this issue. In the past, First Church Congregational received a variance of one year for a temporary sign. Discussion ensued regarding the length of time for the sign.

Mr. Behrens asked if there were comments from the audience. Mr. Anthony Cimiglio, 477 Owego Street, asked if the property has already been approved for housing. Mr. Schaedlich responded that the

proposed housing is permitted on the property; colleges are a residential use. Mr. Behrens indicated that the Board is here only to address the sign, not the use of the property.

Mr. Tom Stanziale, 59 West High Street, asked Mr. Schaedlich if the college can build in an R-1 district. Mr. Schaedlich reiterated yes, colleges are a permitted use and do not need to rezone to construct dormitories. Mr. Schaedlich indicated that no plans have been submitted for the buildings at this time, however, plans for the property are being developed.

Ms. Jan Merrick, 37 Levan, if it hasn't been approved or discussed, why is a sign being installed as a future home? Mr. Schaedlich explained that eventually these plans will be submitted.

Mr. Thomas Stanziale stated that although this might be a positive for the City, it is not a positive for neighborhood and he is against this request.

Mr. Lyons asked if the website address [lec.edu/commons](http://lec.edu/commons) that is on the drawing was submitted to the BZA is operational. Ms. Greiner replied that as soon as the sign goes up, the site will become operational. Mr. Lyons asked if the details and the timeline regarding the project on are the website. Ms. Greiner stated that they will have to develop the website as the project develops. Mr. Lyons stated all the information for the parcel could be placed on the website, providing a way for the public to learn about the situation. Ms. Greiner agreed that the website could be developed to include that information. Mr. Behrens stated he would like to see a specific contact on the website. Mr. Lyons indicated that it wise to have some verbiage on the sign, directing questions to the website.

Mr. Bartholomew asked about the physical quality of the sign. Ms. Greiner stated that they received several quotes from different sign fabricators, but did not want to purchase the sign yet. It is an exterior rated sign with UVB protection, and will be maintained/or replaced should it not wear well.

Mr. Behrens asked what would happen if the development of the property was not approved within the 18 months. Mr. Schaedlich replied that Lake Erie College would have to ask for an extension.

Mr. Horacek moved to grant the variance request with the following stipulations:

1. The number of temporary signs shall be limited to 2.
2. The sign locations do not hinder the line of site for pedestrians etc... per the City recommendations.
3. That the signage shall be maintained in good condition.
4. That the signage shall be removed after eighteen (18) months or the start of construction of the project proposed for the site, whichever comes first.
5. That the date of the start of construction, stating the season and year, be placed on the temporary signs.
6. That all landscaping around the sign be approved by the Zoning Administrator.

Ms. Waytes seconded the motion. On roll call, Ms. Waytes, Mr. Bartholomew, Mr. Horacek and Mr. Behrens answered "yes". Motion carried, 4-0.

#### **REFUSAL NO. 2225**

**APPLICANT:** Fred Span- Advanced Sign & Lighting

**DISTRICT:** B-3 Central Business

**LOCATION:** 216 E. Main Street

**VARIANCE:** 1341.19 (a)

An application has been submitted by Mr. Fred Span of Advanced Sign and Lighting, on behalf of Gold Max, 216 E. Main Street, requesting a variance to Section 1341.19 (a) of the Painesville Codified Ordinances. Section 1341.19 (a) establishes the number of signs on a commercial property to one. The applicant would like to install a second wall sign on the property. A variance for the second sign is being requested.

Mr. Fred Span, Advanced Sign & Lighting, stated that he wanted to address point 3 of the recommendation sent to the Board by the Administration. Mr. Span stated that the building faces a parking lot across the street. Mr. Behrens stated that he guessed that the City is speaking of the parking lot on the other side of the street. Mr. Schaedlich stated that this is the public parking lot on South State Street, across the street from the property. Mr. Span stated he believes this has never been requested for this location. This property is located on an alley and the location is difficult to identify. Although the code indicates you can use 25% of your windows for sign display, the windows are tinted and not that large. It does not do much good at that location. We are proposing something professional and have accommodated the City's requests for signage so far. Mr. Span stated that Mr. Smith, the property owner, is aware of this request.

Mr. Behrens stated that most properties don't have windows to put signage on, and in this case, the tinting can be removed. Mr. Span stated that he cannot remove the tinting. Discussion ensued with regard to the visibility of the existing signage. Mr. Behrens stated that he can see the signage well from North State Street; Mr. Span maintained that it is difficult to see and there is a parking lot across the street. He stated it would be advantageous to have additional signage for more visibility as the building is in an odd location.

Mr. Horacek asked where the proposed sign would be located. Mr. Span indicated that it would be right outside the window on the brick façade. Mr. Horacek stated the Mr. Span himself said that the building is flush with the restaurant in front of it, so he questions how it will be visible anyway. Mr. Bartholomew asked how long the business has been there at the Main Street. Mr. Span replied that the business just moved there. Mr. Bartholomew asked the number of other business's the owner operates. Mr. Span replied that he has had a store in Mayfield for 6 years and added 3 more stores in the last 3 years. More discussion ensued with regard to the visibility of the sign. Mr. Span mentioned that the previous business installed a sign in the same location that he would like to put a sign. Mr. Schaedlich replied that the City told Art Infusion, the previous tenants, that they would have to take the sign down.

The Chairman asked if there were comments from the audience. Mr. Cimaglio, 477 Owego Street, stated that the day the sign went up he saw it and was aware they were there. The sign is generic and will make no difference.

Ms. Waytes moved to grant the variance as requested. Mr. Horacek seconded the motion. On roll call, Mr. Bartholomew and Mr. Horacek answered no. Ms. Waytes answered yes and Mr. Behrens answered no. Motion denied, 3-1.

**REFUSAL NO. 2226**

**APPLICANT:** Jeff Gatchel

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

**LOCATION:** 381 Condon Court

**VARIANCE:** 1127.06 (c) (1)

An application has been submitted by Mr. Jeff Gatchel, 381 Condon Court, requesting a variance to Section 1127.06(c) (1) of the Painesville Codified Ordinances. Section 1127.06(c) (1) establishes the setback requirements for accessory structures in residential districts. The applicant would like to install a shed within the front setback. A variance of the code is being requested.

Mr. Gatchel was present for meeting. Mr. Gatchel presented letters from the neighborhood in support of the installation of the shed. Mr. Gatchel stated he is trying to clean up his property and make it presentable. He commented that he currently has a lawnmower, wheel barrow and shovel, among other things, on his front porch because he has nowhere to store them. The property does not have a garage. He indicated that he will not place the shed on a foundation, so that in the future, should anything need to be placed within the setback, such as a sewer, the shed could be moved.

Mr. Horacek asked what style the shed will be. Mr. Gatchel replied that the shed will be a salt-box design, with a long roof line on one side, and pitched in the front.

Mr. Lyons asked Mr. Gatchel if he is buying the shed. Mr. Gatchel replied no; he is building it. Discussion ensued regarding the location of sewer and water lines. Mr. Gatchel stated the shed will not be near those lines, however, he would move the shed if he needs to. Mr. Lyons also asked if it will be a large shed. Mr. Gatchel replied that it would not be as big as a garage, but it has to accommodate all his "stuff" and he has a lot of it.

Mr. Horacek moved to grant the variance request with the following stipulations:

1. The property owner is responsible for moving the accessory building in the event of future expansion of utilities.
2. The accessory building will have no foundation.
3. The accessory building shall match the color of the house as closely as possible.
4. The accessory building shall be maintained in good condition.
5. The accessory building shall be located 5 feet off the south (front) property line and three feet from the east property line.

Mr. Bartholomew seconded the motion. On roll call, Mr. Horacek, Mr. Bartholomew, Ms. Waytes and Mr. Behrens answered yes. Motion carried, 4-0.

**OTHER BUSINESS**

Mr. Lewis stated that regarding the tabled Orwell Natural Gas variance requests, Code language regarding utilities in the setbacks will be presented at the next Planning Commission, who will make their recommendation to Council.

There being no further business, the meeting was adjourned at 9:00 p.m.

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Jim Behrens, Chairperson

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Tina B. Pomfrey, Secretary