

BOARD OF ZONING APPEALS

April 21, 2011

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. Callender, Mr. DeLeone, Mr. Horacek, and Ms. Waytes. Also in attendance were the 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 17, 2011 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. 2195

APPLICANT: Consolidated Investment Corporation

DISTRICT: B-3 Central Business District

LOCATION: 3 South State Street

VARIANCE: Section 1134.11(a)

An application has been submitted by Mr. Dan Smith of Consolidated Investment Corp., 8 North State Street, requesting a variance to Section 1134.11(a) of the Painesville Codified Ordinances. Section 1134.11(a) states that no sign or marquee shall extend over any sidewalk. The applicant would like to install a projecting shingle sign that extends over the sidewalk 44.23 inches.

Mr. Dan Smith, 7554 Mulberry Road, Chesterland, was present for the meeting. Mr. Smith presented to the Board a page of photos, representing a variety of signs in the City that extend over the right-of-way, from neon electric and banner, to a type that is "historical" in presentation. Mr. Smith explained he is proposing to install a more historical variety of sign with the purpose to acknowledge tenants on the second and third floor of the building.

Mr. Horacek noted that one of the proposed stipulations for approval of the variance by the City is that the sign installed may not swing. Mr. Horacek said he noticed that the proposed sign is a swing- type. Mr. Horacek asked why a swinging sign was proposed. Mr. Smith replied that a fixed sign undergoes more wear and tear from the wind. If they must install a fixed sign, it will have to be better anchored into the front of the building. If the sign swings, it helps it little bit on windy days. Mr. Smith indicated that the one example he presented, the Ave Lane Salon, (the former Finestra) is a small, swinging sign. He indicated that he could live with however the Board votes.

Mr. Behrens asked the City if any one of the signs that Mr. Smith presented is grandfathered. Mr. Schaedlich replied that two of the signs are newer but the rest are grandfathered and several of the signs are quite old.

Mr. Schaedlich asked Mr. Smith about the awning he has illustrated in the drawing he gave to the City. Mr. Schaedlich asked where the awning will go. Mr. Smith replied that it is superimposed over the doorway, which since then has been improved. The sign will be off-set to one side of the awning.

Mr. Horacek asked Mr. Schaedlich the reason for recommending a fixed sign. Mr. Schaedlich replied safety reasons, the potential for the sign coming lose. Ms. Waytes asked if the stipulation was on the other shingle sign for the salon. Mr. Schaedlich replied no, but that he could not speak on the past variance requests because he was not in the employment of the City at that time.

Mr. Behrens asked Mr. Smith if the sign will be located on the west side of the building; the previous various request made a few years ago was on the north side (of the building). Mr. Smith replied yes. Mr. Behrens commented that he sees the difference being, other than location, is that the previous various request was made by the tenant and not Consolidated Investment Corp. Mr. Smith replied yes. Mr. Schaedlich also added that the previous request was for a second story sign and this sign is planned for the first floor and mounted lower.

Mr. Behrens asked for the recommendation of the City. Mr. Schaedlich stated that the City is looking to modify the sign ordinance for the downtown area to give more flexibility to the store owners in that area. One of the changes is the use of small shingle signs at the entrance of each for first floor tenants only. This will give a little flare to the downtown area. It is still in review.

Mr. DeLeone moved to approve the variance request with the stipulations that the sign shall be hung so it does not swing and should the Tucci Law Office ever vacate their upper floor office, the Tucci sign shall be removed from the north wall of the building, and all future upper floor tenants shall be listed on the projecting sign only. Mr. Horacek seconded the motion. On roll call, Mr. Callender, Mr. DeLeone and Mr. Horacek answered yes. Ms. Waytes and Mr. Behrens answered no. Motion carried, 3-2.

REFUSAL NO. 2196

APPLICANT: Oxbow Engineering, Inc. on behalf of Mark Rajko, Painesville One Stop

DISTRICT: B-3 Central Business District

LOCATION: 110 Liberty Street

VARIANCE: Section 1133.01(b) (1), 1139.04(d)

An application has been submitted by Oxbow Engineering, Inc., on behalf of Mr. Mark Rajko, requesting a variance to Sections 1133.01(b) (1) and 1139.04(d) of the Painesville Codified Ordinances. The applicant is proposing a 1,850 sq. ft. addition to the Painesville One-Stop, 110 Liberty Street. Section 1133.01(b) (1) establishes the rear yard setback at 25 feet. The applicant is requesting a rear yard setback variance of 4 ft. 1 inch to 20 ft. 11 inches. Section 1139.04(d) states that no structure shall be enlarged or altered for a nonconforming use. The applicant would like to enlarge the gas station/retail store at that location.

Ms. Lynn Egensperger, 1538 Stumpfield Rd, Jefferson, was present for the meeting. She was representing Oxbow Engineering, on behalf of the applicant. Mr. Joe Urbanick, 969 Riverside Drive, Painesville Township, was also present to address particular questions regarding the design of the proposed addition. Ms. Egensperger supplied building samples to the Board for their review. She stated that the objective of the applicant is to refresh and remodel the property.

Mr. Behrens asked Ms. Egensperger what is happening to the dumpsters that are currently located where the proposed addition is planned. Ms. Egensperger stated the site plan shows where the excavation will occur and where the dumpster will be relocated, enclosed with fencing. Additionally, the kerosene tanks and utilities will be relocated, and the guardrail will be removed. It will be replaced with a fence to screen the neighbor's property. Ms. Egensperger added that no changes are intended for the gas pump areas or the drive aprons.

Mr. Behrens asked about the striping proposed on the Liberty Street side of the property. Ms. Egensperger stated that the paint lines will delineate handicap access and will clarify where vehicles can park, "cleaning up" the site.

Mr. Schaedlich asked if they have a drawing showing how the building will look when finished. Ms. Egensperger stated that she does not have a full color rendering but the picture she submitted is the existing building showing the extension with 2 stories, the dormers facing the front of the building. Mr. Urbanick explained the finishes on the building. He indicated that where durability is an issue, cultured stone will be installed on the lower portion of the structure and a complementary siding color (beige) will be on the upper portion. The shingled roof will be complementary to the color on the building.

Mr. Behrens asked for comments from the audience. There being none, he asked for comments from the City. Mr. Schaedlich stated that the finishes look good. Mr. Lewis asked what is planned for the second floor. Mr. Schaedlich stated that storage space is planned for the second floor. Mr. Urbanick added that the objective is to place stock items on the second floor. Mr. Behrens commented for the record, that no living space is planned for the second floor.

Mr. Lyons commented that all the amenities included in this discussion should be included as stipulations of the variance request, such as 6 foot fencing along the rear property line, the enclosure of the garbage, etc... Mr. Lewis and Mr. Schaedlich also suggested stipulations that they comply with the requirements of the downtown district and that there be no habitation of the storage area being constructed on the second floor of the proposed structure. Mr. Schaedlich also explained that in the 1960's the building was constructed at 22 feet 11 inches before the 25 foot setback was established. The City is recommending granting the variance request to bring the building in line with the original structure. Secondly Mr. Schaedlich explained that this expansion of the property is not expanding the non-conforming use portion of the business because no additional gas pumps are being added to the property. The other portion of the business is a retail use which is permitted in the zoning district. Mr. Schaedlich just wanted to mention this so that if, in the future, the variance of the nonconforming use comes into question, there is an explanation from the City.

Mr. Horacek moved to grant the variance of the setback requirement and the expansion of the nonconforming use. Ms. Waytes seconded the motion. On roll call, Mr. DeLeone answered no, Mr. Horacek, Ms. Waytes, Mr. Callender and Mr. Behrens answered yes. Motion carried, 4-1.

REFUSAL NO. 2197

APPLICANT: Brad Rhodes, CVS

DISTRICT: B-2 General Business District

LOCATION: 15D-003-0-00-007, 9, 11, 12, 13, 14, 15

VARIANCE: Section 1341.08(b) (c)

An application has been submitted by Mr. Brad Rhodes of CVS proposing a variance to Section 1341.08(b) (c) of the Painesville Codified Ordinances. The applicant wishes to install 15 signs on the property of the proposed new retail store. Section 1341.08(b) (c) limits the number of signs on a commercial property. A variance of 11 signs is being requested.

Mr. Brad Rhoades, 5757 East Cork Street, Kalamazoo Michigan, was present for the meeting, representing CVS Pharmacy. Mr. Rhoades explained that his display shows a typical CVS store and their sign package and illustrates a 48 inch channel letter sign, 18 inch ancillary signage, beauty, photo, drive-thru pharmacy, a typical monument sign and a typical pylon sign. Mr. Rhoades said that is not what is planned to be done in Painesville. CVS is proposing 2 ground signs at 50 square feet, wall signs with 36 inch channel letters, all combined, approved and permitted under Painesville Sign Code. CVS is requesting a variance for an awning signage advertising the CVS pharmacy with 8 ½ inch copy, and a 9 inch illuminated, drive-thru pharmacy sign, and below that an informational, directional plaque, advertising full service. A 1 square foot sign over the window of the drive thru pharmacy is planned to advertise pick-up & drop off. Another sign will be installed at the front entrance to advertise the name of the store manager, store hours and phone numbers and pharmacist name and phone number. Also directional signs are planned for the parking area to direct traffic to the drive-thru window. This particular sign is often painted on the asphalt but at times the weather in Northeast Ohio makes it difficult to view, particularly in the winter. Also there is a DO NOT ENTER sign planned for traffic control at the drive-thru area. Additionally a RECEIVING ENTRANCE sign will be located on the CVS back door. Lastly, two temporary signs are to be installed during the construction process. Mr. Rhoades explained that the City of Painesville Sign Code only allows for them to be installed for 30 days and CVS would like to have the signs during the duration of the construction of the building. Mr. Schaedlich said he would address those particular signs when CVS gets closer to construction.

Mr. Behrens asked for comments from the Board or the City. Mr. Schaedlich commented that the sign package in his opinion is very tastefully done. The signs could have been much larger and CVS has shown a lot of restraint in the signs. Mr. Schaedlich indicated that he worked with CVS and impressed upon them that the downtown area is a major gateway into the City and CVS took that into that into consideration when designing the site. The City recommends approval of the variance request.

Ms. Waytes moved to approve the variance as requested. Mr. DeLeone seconded the motion. On roll call, Mr. Horacek, Ms. Waytes, Mr. Callender, Mr. DeLeone and Mr. Behrens answered yes. Motion carried, 5-0.

REFUSAL NO. 2198

APPLICANT: Steele Mansion Suites, LLC

DISTRICT: R-2 Multi-Family Residential

LOCATION: 348 Mentor Avenue

VARIANCE: Sections 1129.01; 1127.06(d) (1); 1139.03(a) & (b); 1139.03(c); 1137.04(a) & (c); 1137.03(a) (3); and 1367.03(e)

An application has been submitted by Steele Mansion Suites, LLC, proposing the renovation of Steele Mansion at 348 Mentor Avenue into seventeen apartment units. Variances to the Painesville Codified Ordinances are needed as follows: Section 1129.01: allowable density. Section 1129.01: maximum height. Section 1129.01: minimum floor area. Section 1127.06(d) (1): maximum square footage for accessory buildings. Sections 1139.03(a) and (b): restoration and enlargement of nonconforming structure. Section 1139.03(c): restoration requirements. Section 1137.04(a) and (c): required number of parking and handicap spaces. Section 1137.03(a) (3): driveway access to parking. Section 1367.03(e): no habitable cellar space.

Mr. Arthur Shamakian, 1664 North Shore Drive, Painesville, was present for the meeting. He stated that his organization plans to rebuild Steele Mansion. He is excited about it and it is a family project. Mr. Shamakian explained that he met with Mr. Russ Schaedlich, Painesville, City Planner, earlier in the week and reviewed a lot of the details of the project. He also commented that Ms. Lynn Egensperger, of Oxbow Engineering, is the engineer on the project.

Mr. Behrens reviewed what was in the Board's packet and asked Mr. Shamakian if he had anything to add. Mr. Shamakian reviewed the requests one-by-one, at the suggestion of Mr. Schaedlich. Mr. Shamakian indicated that he withdrew the variance request for allowable density, settling with 15 units, the allowable maximum number under the City Code.

Mr. Shamakian asked for a variance of the maximum height of the building. Mr. Shamakian said the maximum height allowable is 35 feet. He intends to build the roofline back to what was original to the building, at 42-43 feet. Mr. Schaedlich explained that a mansard roof is measured from the deck of the roof which brings the variance request to only 2 feet over the permitted height. Ms. Egensperger showed the Board the elevation of the building as proposed. Mr. Schaedlich also mentioned that the mansion was built in 1863 and zoning did not begin until 1927.

Mr. Shamakian withdrew the request for the minimum floor area per square foot. He indicated that all units will have 750 square feet per 1 bedroom unit. Mr. Schaedlich indicated that it helped that the number of units was reduced by two.

Mr. Shamakian asked for a variance of the maximum square footage for accessory structures. He explained that he would like to build garages for the tenants. It would be helpful for tenants when there is snow and garages will also aid in property maintenance. Mr. Schaedlich explained that although two

accessory structures are permitted on a parcel, the largest can only be 768 square feet and the second cannot be more than 300 square feet. The City feels that this would be a nice addition to this particular project, being in the historical district. The lot area of the property that would be used for the construction of the garage comes to approximately 10%, roughly the percentage consumed by a garage on a typical single family parcel. The City is comfortable with granting a variance for the purpose of building these garages.

Mr. Behrens asked if the garages will house 30 cars. Ms. Egensperger replied no, there will be 18 parking spaces in the garages, 6 spaces in one building, and 12 spaces in the other. The rest of the parking spaces will be open uncovered spaces. Two spaces are required for each unit, so one space will be in the garage and the other in the open lot. Mr. Schaedlich stated that they need extra spaces for visitors. The original plan submitted called for a variance of parking space requirements. They provided 32 spaces on the original site plan when they proposed 17 units. They were 2 parking spaces shy of the required amount (34) of spaces. However, since the number of units was reduced to 15, Mr. Shamakian now has enough parking provided and they meet the parking requirement. That variance request may be withdrawn. Ms. Egensperger also added that adequate handicap spaces will be added as required. There is space in the plan to configure in the required number, and the location will be determined once the entrances to the units are in place, but they will more than meet the requirements of the City.

Mr. Schaedlich stated the next variance request deals with the access drive off of Mentor Avenue. The proposed access drive is shown with twelve (12) feet of width. The City would like a minimum of 20 feet in width from the right-of-way line to allow 2-way traffic. Mr. Schaedlich stated this is for safety purposes. Ms. Egensperger stated that they will maintain 20 feet for the drive, so the variance request is withdrawn.

Mr. Schaedlich indicated that he recommends fencing and screening of the parking lots and the drive going around the property. Additionally, the City would like a storm and erosion plan submitted to the City Engineer. Ms. Egensperger stated that they plan to address all the issues mentioned with the final site approval. Mr. DeLeone asked if all the fencing will be uniform. Mr. Shamakian stated that he can work on it with the neighbors. Mr. Schaedlich stated that uniform fencing was not a requirement of the variance requests.

Discussion ensued with regard to Section 1139.03 (a) & (b), restoration and enlargement of nonconforming structure. Mr. Lyons indicated that was withdrawn by the City as it does not apply to this request. Addressing Section 1367.03 (e), no habitable cellar space, Mr. Lyons stated that has also been withdrawn because the City determined through administrative review that it did not apply in this situation. There are only two variances that are being requested; the height of the building and the construction of the garages.

Ms. Egensperger indicated that the City will get full architectural renderings of the garages as a requirement of the Mentor Avenue Historical District.

Mr. Callender commented that the drainage has been compromised at the back of the property and he would like the drainage reviewed. Mr. Schaedlich replied that the City is aware of the issue and it will be addressed through the storm water management plan.

Mr. Behrens asked for comments from the Board and/or neighborhood. Mr. Johnson of 368 Mentor Avenue stated that he completely approves of the variance requests being granted.

Mr. Lyons recommended that the granting of the variance for accessory structures be specific to garages so that something other than garages cannot be built in its place.

Mr. DeLeone moved to approve the variance of square footage for the construction of accessory structures provided the accessory structures are garages only. Additionally Mr. DeLeone stipulated that storm water management plans be submitted for the property. Mr. Horacek seconded the motion. On roll call, Ms. Waytes, DeLeone, Mr. Horacek and Mr. Behrens answered yes. Mr. Callender abstained from the vote. Motion carried, 4-0.

Mr. DeLeone moved to approve the variance of maximum height. Additionally, Mr. DeLeone also stipulated that storm water management plans be submitted for the property. Mr. Horacek seconded the motion. On roll call, Mr. DeLeone, Mr. Horacek, Ms. Waytes and Mr. Behrens answered yes. Mr. Callender abstained from the vote. Motion carried, 4-0.

OTHER BUSINESS:

Mr. Callender was welcomed as the newest member to the Painesville City Board of Zoning Appeals. Additionally, it was mentioned that a training session for Board members would soon be scheduled. The secretary would send out an e-mail with more details.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:35 p.m.

Jim Behrens, Chairperson

Tina B. Pomfrey, Secretary