

BOARD OF ZONING APPEALS

June 17, 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 Ms. Waytes and Mr. Behrens. Also in attendance were the Assistant Law Director, James Lyons; the City Planner, Russ Schaedlich and the Secretary, Tina B. Pomfrey.

MINUTES: The minutes of May 20, 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. 2185

APPLICANT: Tim and Susan Gall

DISTRICT: R- 1 Single Family Residential

LOCATION: 830 Mentor Avenue

VARIANCE: Section 1125.04 (47) (A)

An application has been submitted by Tim and Susan Gall of Shaker Heights, Ohio, requesting a variance to Section 1125.04 (47) (A) of the Painesville Codified Ordinances. Section 1125.04 (47) (A) limits home occupations to family members residing in the home. The applicants are proposing to have three (3) non-family members and occasional interns work in the home occupation.

Mr. & Mrs. Gall, 22411 Rye Road, Shaker Heights, Ohio were present for the meeting. Mr. Gall passed out the Parking Plan (Exhibit A) of the property to the Board. He indicated that the first page of the plan shows where the current parking exists and the second page shows the proposed area for paving. Mr. Gall commented that the proposed parking area is quite large and paving would commence immediately after purchasing the property if he and Mrs. Gall succeed in purchasing the house.

The Chairman asked the secretary if there was communication from the neighborhood. The secretary replied that she received a call from Ms. Sandra Dray, 819 Mentor Avenue, who is favor of the variance request being granted.

The Chairman asked for the recommendation from the City. Mr. Schaedlich commented that this is a unique property with 2.44 acres. It is well screened from the street with a wall and lush vegetation. Mr. Schaedlich indicated that if the Board approved the variance with the recommendations of the City, he would suggest that #5 of the recommendation be augmented to read additionally that the variance shall not be transferable to any other party and the variance shall cease if the property or business is transferred in any manner.

Mr. Lyons also suggested that another stipulation be added that the property shall not be subdivided while the variance is in effect.

Mr. & Mrs. Gall said they have no objection to that. Mrs. Gall said she understood that a letter was submitted with signatures from the neighbor and wondered if the Board saw it. The secretary answered that since it was turned in before the meeting, the Board received a copy of the letter in their informational packet.

Ms. Bacho asked Mr. Schaedlich how the home occupation stipulations are enforced and monitored, particularly stipulation #3 that non family employees shall be limited to three (3) full-time employees and two (2) college interns (maximum of five non-family employees) at any given time . Mr. Schaedlich replied that there is an honor system with regard to home occupation. There is no inspection process. If the department receives complaints from the neighbors, then an investigation ensues. If the complaints have merit then the City enforces the Code and asks the business to relocate to a commercially zoned area.

Mr. Behrens commented that there is no way to enforce the stipulation. Mr. Schaedlich reiterated that there is no routine inspection process.

Mr. Lyons explained that the property would be monitored the same the same way all other home occupations are enforced, regardless of a variance being put into place. If the Community Development Department receives complaints on a particular property, an investigation is conducted by the department. It is no different from any other property in the City.

Ms. Bacho asked how stipulation #5 and #6 would be monitored. Mr. Lyons explained that the use would cease if the property is sold and the new owners could appear before the Board and request a variance. Stipulation #6 is overseen by the Planning Commission and therefore relatively easy to monitor. Mr. Lyons mentioned that the current owner of the property successfully subdivided the lot

through the Planning Commission but never followed through with the process. In this case, Mr. Lyons said it would be inappropriate to reduce the size (of the property).

Mr. McElroy moved to grant the variance with the recommendations of the City and the additional recommendations of the City Planner and Law Director. Ms. Waytes seconded the motion. On roll call Ms. Waytes answered yes, Mr. Behrens answered no, Mr. Horacek, Mr. McElroy and Ms. Bacho answered yes. Motion carried 4-1.

Mr. Gall said that he and his wife are excited about the prospect of buying the property. They hope their purchase is successful, because it is going into Sheriff's sale. He mentioned that Mrs. Gall grew up in Painesville and they both believe this house gives the City character. They hope they can help to maintain the City's character by acquiring the property.

There being no further discussion, the meeting was adjourned at 7:50 pm.

Julie Bacho, Chairman

Tina B. Pomfrey, Secretary