BOARD OF ZONING APPEALS

August 16, 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. Callender, 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 June 21, 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. 2230
APPLICANT: American Legion Post 336
DISTRICT: B-2 General Business
LOCATION: 60 Chester Street
VARIANCE: Section 1131.02 (a) & (c)

An application has been submitted by Mr. James Dillon for the Brakeman-King Post 336 of the American Legion Inc., requesting a variance to Section 1131.02 (a) & (c) of the Painesville Codified Ordinances. Section 1131.02 (a) indicates setbacks per the Setback Maps. Section 1131.02 (c) states that lots having double frontage shall be required to meet the front yard setback from both streets. The applicant wishes to install a 7.8 ft. x 19 ft. addition at the American Legion building that will have a 3 (three) foot setback from Chardon Street in lieu of the 25 ft. setback required per the City's Setback Maps. A variance of 22 ft. is being requested.

Mr. Stan Babic, 1472 Forman Rd., Jefferson, Ohio, was present for the meeting. He said the reason they are requesting the variance is to add a cooler to the existing bar area. The membership has grown to 250 members and the current cooler is too small and located inconveniently. The Legion would like to place the cooler behind the bar. It would operate better for the bar maids and it will be safer as well. The legion has been at this location since 1957.

Mr. Callender asked for drawing clarification. He asked how the cooler is accessed. Mr. Babic stated through a door behind the bar. Mr. Schaedlich stated that access is similar to that of a beverage store. He stated there is a drawing in the BZA packet.

Mr. Anthony Torre, 158 Sanford St, stated he is a member of the post and is a past commander. He said the Board must grant this variance because you (the City) does not want to lose the membership.

Mr. Behrens asked for comments from the City. Mr. Schaedlich stated he had nothing further to add to his recommendation, which is approval.

Ms. Waytes moved to approve the variance as requested. Mr. Callender seconded the motion. On roll call, Mr. Callender, Ms. Waytes, Mr. Bartholomew and Mr. Behrens answered yes. Motion carried, 4-0.

REFUSAL NO. 2231
APPLICANT: Paul A. Jance
DISTRICT: B-2 General Business
LOCATION: 220 Chestnut Street
VARIANCE: Section 1133.01 (b) (1)

An application has been submitted by Mr. Paul A. Jance of Jance Construction, on behalf of Chestnut Mini-Storage, requesting a variance to Section 1133.01 (b) (1) to construct an additional two (2) mini-storage buildings to the south of the existing three (3) buildings on the property, the southernmost building having side yard clearances of seventeen feet (17') and eleven and one-half feet (11.5') from residentially zoned property in lieu of the required minimum setback of twenty-five feet. A variance request of eight feet (8') and thirteen and one-half feet (13.5') respectively are being requested.

Mr. Brian Avsec, owner of Chestnut Mini-Storage, was present for the meeting. Mr. Paul Jance, Mr. Avsec's contractor, was also present for the meeting. Mr. Avsec explained that the proposed building is on the back of the property, the south side, so there are no other structures present there, just lawn.

Mr. Bartholomew questioned the proposed drainage and water issues that might evolve once a building goes up. Mr. Schaedlich asked if there will be gutters on the backside of the southernmost building. Mr. Avsec replied yes. Discussion ensued with regard to screening the property.

Mr. Schaedlich replied that several years ago, the railroad cleaned out the culvert that runs along the property and worked with the City Engineer regarding water retention ponds. The City is comfortable with the results and believes it is working. Mr. Jance also added that catch basins will be added to the property to collect excess water. Gutters will also be added to the proposed buildings.

Mr. Bartholomew asked about fencing around the property. Mr. Schaedlich indicated that there are screening requirements, achieved through mounding, landscaping and fencing.

Mr. Anthony Torre, 158 Sanford Street, commented that expansion of business is good for the City as it brings in additional tax dollars. Mr. Angelo Cimaglio, 732 Cedarbrook Drive, commented that currently, the area floods horribly, especially south of the Norfolk and Southern tracks. Mr. Cimaglio wondered if the property will be paved, and if so, how much of it will be paved? Additionally, the water should be directed to the west, and not the east.

Mr. Schaedlich replied that the City Engineer will work to make sure the calculations are provided for water run-off.

Mr. Bartholomew stated that the drawing provided shows detention ponds within the fenced in area. He wondered if workers will be able to access that. Mr. Avsec replied yes, the office will let them in.

Mr. Steve Evans of Mentor, owner of the property at 230 Chestnut Street, stated that flooding is a terrible issue. He asked how the existing problem is going to be eliminated. Additionally, he complained of the noise level within the mini-storage property, saying that the facility is open 24/7. He indicated that had he known about the proposed building, he would not have purchased the property a few years ago.

Ms. Waytes asked Mr. Evans who lives in the house that he owns. Mr. Evans replied that his son and nephew live on the property.

Mr. Schaedlich commented to Mr. Evans that his single family home on Chestnut Street was only rezoned residential last fall and prior to that was commercially zoned property, along with a few other single family homes adjacent to the storage facility.

More discussion ensued regarding water and flooding concerns. Mr. Evans stated that a retention pond is only going to add more mosquitoes to an already damp area. Mr. Jance explained that a detention pond is planned for the property, not a retention basin. A detention pond behaves like a bathtub. It fills up when there is a lot of rain and slows water flow to the surrounding land. Then, like a bathtub when a plug is pulled, the water slowly drains away. The detention pond is not designed to hold water, only temporarily hold water.

Mr. Behrens asked how much traffic the mini-storage gets. Mr. Andrew Forcheer, the manager of Chestnut Mini-Storage, indicated that the storage facility renters have access 24 hours a day but is mainly visited by daytime visitors. He said very few renters arrive in the evening.

Mr. Lewis asked if there is lighting on the property. Mr. Forcheer replied yes, there is outdoor lighting throughout the facility. Mr. Bartholomew what the proposed square footage is. Mr. Avsec stated it is 26, 000 to 28, 000 sq. ft.

Mr. Cimaglio again questioned removal of the water from the area. Much discussion ensued regarding the over-worked sewer system and its ability to handle more water from additional building. Mr. Schaedlich replied that the City Engineer will have to review this before anything can happen. The City suggests approval contingencies that will deal with storm water management and drainage of the property.

Jim Lyons stated that what was explained was that through the construction of the detention pond, all the excess water does not actually get into the storm water system until there is capacity for the water to flow in. Mr. Jance reiterated that in order to avoid exceeding the capacity of the sewer system, a detention basin will be installed. In a heavy rain the detention basin will empty out slower than if it were a light rain.

Mr. Carl DiFranco, 6205 Colleen Drive, Concord Township, stated that he owns property at 224 Chestnut Street. He said his tenant complains about the noise at the mini-storage. He also stated that with regard to the water retention issue, there is a 36 inch pipe going under the tracks, where it bottlenecks and is restricted the rest of the way. If more building goes in, adding additional water, the system will not be able to handle it. Mr. DiFranco mentioned that the noise and lack of privacy right behind the houses is a major concern of his.

Mr. Schaedlich, as a point of clarification, indicated that the proposed northernmost building does not need Board approval to be built; only the southernmost building needs a variance to be granted.

Mr. Lewis stated that the City is addressing the drainage issues in the Tiber Creek Basin. Additionally, the City has worked with the railroad to clean the drainage ditches. Mr. Lewis indicated that the proposed detention basin will not release water until the Tiber Creek Basin can take more water. Chestnut Mini-Storage is required to submit water mitigation calculations and the City Engineer can then make the determination regarding the best course of action.

Mr. Jance added that the existing detention plan on the property meets the current city requirements. Any new construction will meet the new construction requirements. The ditches may need to be maintained by the City but that is the City's issue and should not be a requirement of the drainage plan for any new construction on the property.

Mr. Evans asked if the detention basin will be maintained. He stated that because of sediment build-up, these type of basins need to be dug out on a regular basis.

Mr. DiFranco mentioned that garbage and debris from other properties runs down to Chestnut Street and unless the drainage pipes are made larger, with cages to catch the rubbish, there is still going to be flooding. The construction of the school (Chestnut Middle School) has only added to the problem. Mr. DiFranco stated again that his main concern however, is the privacy and noise issue. He commented that people party in them and will live in them if allowed to.

Mr. Avsec replied that there are no issues of that nature at this time, nor are there police issues either. He indicated that the gate system has been changed so that a unique access code is given to every renter to track their access to the units. Mr. Avsec assured the Board that no one is living in the units.

More discussion ensued. The Chairman asked if there was communication from the neighborhood. The secretary said she received a letter from Chuck Kaminski, of 240 Chestnut Street. Mr. Kaminski wrote that he was concerned about possible flooding because of water run-off. Additionally, he hoped that if the board decided to grant the variance request, that a fence would be installed separating his property from the commercial property of the storage facility.

More discussion ensued regarding drainage on the property. Mr. Lewis indicated that the City and the property owner can work together to address any issues regarding noise and drainage on the property. He assured everyone that the drainage issue is being addressed, however, it is a bigger issue that requires more consideration than one BZA meeting.

Ms. Waytes moved to approve the variance request with the following stipulations:

1) Building "E" shall provide storage units that have access/overhead doors on the north side of the building only.
2) Screening and buffering of adjacent residential property shall conform to the requirements of Section 1133.01(a).
3) No parking of vehicles or storage of materials shall occur on the south side of Building "E".
4) Review and approval of storm water retention/removal plan by the City Engineer.
5) Building "E" shall have a 35" setback from the rear property line of 230 Chestnut St.
6) Gutters and downspouts shall be installed on the south side of Building "E".

Discussion ensued with regard to the screening and fencing of the property.

Mr. Bartholomew seconded the motion. On roll call, Mr. Bartholomew, Ms. Waytes and Mr. Bartholomew answered yes. Mr. Callender answered no. Mr. Behrens answered yes. Motion carried, 3-1.

There being no further business, the meeting was adjourned at 8:45 p.m.

Jim Behrens, Chairperson

Tina B. Pomfrey, Secretary