

## BOARD OF ZONING APPEALS

February 20, 2020

**CALL TO ORDER:** The Board of Zoning Appeals convened in Courtroom No. 1 for their regular meeting.

Chairman Behrens called the meeting to order at 7:30 p.m. and asked the Secretary to call the roll. Members in attendance were Mr. Ryan Briggs, Ms. Rene Aston, Mr. Jim Bartholomew, and Chairman James Behrens. Mr. James Callender was absent. Also in attendance were Assistant Law Director Jim Lyons; Assistant City Manager/Community Development Director Doug Lewis; City Planner Lynn White; and the Secretary Diane Melsheimer.

### **ORGANIZATIONAL MEETING:**

Lynn White introduced that the By-Laws, which were distributed to members at the meeting, state the following per Article V, Election of Officers:

Section 1. An organizational meeting shall be held every two years, said meetings being the first meeting of the Commission held subsequent to the reorganization of City Council.

Section 2. Nominations for Chairman and Vice-Chairman shall be made from the floor at the organization meeting and an election shall follow immediately thereafter.

Section 3. A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected and shall serve for two years or until his successor shall take office.

Section 4. Vacancies in office shall be filled immediately by regular election procedure.

Mr. Briggs moved to nominate Mr. Behrens to continue in the role of Chairperson for two years. Mr. Bartholomew seconded. On Roll Call, Mr. Briggs, Mr. Bartholomew, Ms. Aston, and Chairperson Behrens answered "yes".

**Motion carried, 4-0.**

Mr. Bartholomew moved to nominate Mr. Callender to continue in the role of Vice-Chairperson for two years. Ms. Aston seconded. On Roll Call, Mr. Briggs, Mr. Bartholomew, Ms. Aston, and Chairperson Behrens answered "yes". **Motion carried, 4-0.**

### **ACTION ON MINUTES OF PREVIOUS MEETINGS:**

Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of September 19, 2019. There being none, Chairman Behrens asked for a motion. Motion by Mr. Briggs, seconded by Mr. Callender, to accept the Board of Zoning Appeals Meeting Minutes of September 19, 2019. Chairman Behrens asked the Secretary to call the Roll.

On Roll Call, Mr. Bartholomew, Ms. Aston, Mr. Briggs and Chairman Behrens answered "yes". **Motion carried, 4-0.**

Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of November 21, 2019. Mr. Bartholomew stated there was an error in the motion to adjourn. The matter will be reviewed and brought before the Board at the March meeting.

### **MEETING PROCEDURE AND SWEARING IN:**

Chairman Behrens explained the procedures for the meeting, and then swore in those who planned on speaking for or against the variance request(s). Additionally, Chairman Behrens explained that the Board of Zoning Appeals has the right to adjourn the meeting to deliberate, if needed, and then return to resume the meeting.

### **NEW BUSINESS/PUBLIC HEARING ITEMS:**

#### **NEW BUSINESS:**

##### **Administrative Appeal—Request to postpone**

**APPLICANT/OWNER:** Julius A. & Catherine Sue Kovacs

**LOCATION:** 223 Chestnut Street, Painesville OH

In accordance with the Building Code of the City of Painesville, Ohio Section 1339.05, a petition has been submitted by Catherine Sue Kovacs regarding the Violation/Demolition Order dated April 24, 2019. The demolition order is for the unfit and unsafe living conditions located at 223 Chestnut Street. The order states the entire structure has been determined to be unsafe based on the criteria of Sections 1339.02 and 1365.07 of the Codified Ordinances of the City of Painesville, Ohio and must be demolished. Section 1339.05 states the applicant shall be afforded a hearing by the Board within thirty days. After such hearing, depending upon its finding as to whether the provisions of this chapter have been complied with, the Board shall continue such order in effect or modify it or revoke it.

Applicant requested this be postponed until the March 19, 2020 meeting as they would like to be heard before a full board. The Board had one member absent for this meeting.

**PUBLIC HEARING ITEM(S):**

**Refusal No:** 2344  
**Applicant/Owner:** Raymond Walling  
**Location:** 839 Sunbury Oval  
**District:** R-1 SINGLE FAMILY RESIDENTIAL DISTRICT  
**Variance:** 1117.01 Height, lot area and minimum floor area requirements.

An application has been submitted by Raymond Walling of 839 Sunbury Oval requesting a variance to Section 1117.01 of the Unified Development Code of the City of Painesville. Section 1117.01 states the minimum rear yard setback in the R-1 Single Family Residential District is thirty-five (35) feet. The applicant is proposing to construct a 20' x 18' addition to the existing attached garage at the rear of the home. The addition is proposed at a 20.7-foot setback on the rear property line; a variance of 14.29-feet is being requested.

Raymond Walling, 839 Sunbury Oval stated that he originally pulled a permit in 2014 but then got sick and the permit expired. He applied in 2019 to renew his permit however he got denied by the City Planner due to a property line easement requirement of 35 feet. He explained that he has an 18'x20' concrete slab then came up with the idea to attach the garage to the house. He has a \$7,000 slab in anticipation of doing this project.

Dan Marinucci, 260 Nelmar Drive, engineer and attorney, stated this was a hardship because of the 50' easement-gully/ravine in the backyard. He stated that Mr. Walling does not have the rear yard capability to allow for the 18'20' garage because of the 50' easement for the gully in his backyard. Also he cannot turn into his garage as there is no turning radius because lack of enough property on the side yard.

Lynn White explained what had happened in 2014 and the City's position at this time. She reiterated that he was granted a detached garage permit, the code requirements of 5 feet off the side and three feet off the rear property lines. She explained about the channel easement/gully, which ODT was granted in 1961, and the course of the water flow. She and the City Engineer worked with him and acknowledge this is a unique situation because of the size of his house, the location on a cul de sac, and the setbacks.

Discussion ensued as to why he needed the additional garage space as he has an attached garage and how he would get into the garage. The new space would be a hobby area to work on an old car he planned to work on in his retirement and he plans to back the vehicle into the garage. It was determined that he would not be able to widen the driveway because of setbacks.

Chairman Behrens asked the audience if there were comments for or against the variance request.

Melissa and Chris Reye, 849 Sunbury Oval ([reye031@gmail.com](mailto:reye031@gmail.com)) were in attendance. Mr. Walling's neighbor, Melissa, spoke in favor of this variance and offered to give him a non-exclusive easement for driveway purposes on the side yard to allow for him to go in and out of the garage.

Mark Yoo, 810 Doris Circle sent correspondence in support of this easement. He was unable to attend the meeting and his property backs up to Mr. Walling's property.

Chairperson Behrens asked for comments from the Assistant Law Director and the Administration. Mr. Lyons stated that this is a unique situation because of the 50' easement which make the lot even smaller. He also stated that if the garage was not attached, it would even be further into the easement.

Ms. White showed the plat map that is filed with the county. She stated approximately how much of the ravine is on Mr. Walling's property and that the City of Painesville Public Works Department maintains the gully by brush hogging it 1-2 times per year. It is accessed through the woods directly behind Mr. Walling's property.

Motion by Mr. Briggs, seconded by Mr. Bartholomew to approve Refusal 2344. On Roll Call for the motion, Mr. Briggs, Mr. Bartholomew, Ms. Aston, and Chairman Behrens answered "yes". **Motion carried, 4-0.**

**Refusal No.** 2345  
**APPLICANT/OWNER:** Encore Estates LLC  
**Location:** Encore Estates at Heisley Park  
**District:** R1-60 SINGLE FAMILY RESIDENTIAL DISTRICT  
**Variance:** 1127.10 Signs Permitted In Residential Districts.

An application has been submitted by Encore Estates LLC requesting a variance to Section 1127.10 (b) of the Unified Development Code of the City of Painesville. Section 1127.10 (b) states that in Residential Developments; each residential development shall be permitted one freestanding sign, eight square feet or less in area, located near the entrance to the development. The applicant is requesting the placement of two development signs to be placed at the two entrances of the development. A variance is required to allow the one additional sign.

George Davis 9124 Tyler Blvd, Mentor, OH 44060 ([george@gd3ventures.com](mailto:george@gd3ventures.com)) presented that this development will have two main entrances thus the need for two signs. They want to differentiate Encore Estates development from the Heisley Park development and for marketing and for a sense of belonging for the residents.

Mr. Lyons considered that originally when developments were considered, the thought of City Council was one main entrance thus one sign. They possibly did not want to have signs at secondary entrances. The developer wanted to have a good traffic flow for these developments thus two main entrances. Liberty Greens was discussed as having two entrances--one main and one secondary through Cedarbrook but only one sign.

Chairman Behrens asked the audience if there were comments for or against the variance request. There being none, he asked the Secretary if there was correspondence concerning this matter. The Secretary replied there was none.

Ms. White talked about the sign code being brought before Council in 1991. Also the consideration did not take in the large subdivisions of 600 and 166 residences we have seen in the last few years.

Motion by Ms. Aston, seconded by Mr. Briggs to approve Refusal 2345 with the following stipulations:

1. The base of the signs shall be effectively landscaped with living plant material and maintained in good condition at all times;
2. Exposed foundations shall be constructed with a finished material such as brick, stone, or wood, or be screened with evergreens to the top of the anchor bolts; and
3. The signs are to be illuminated through an external light source.

On Roll Call for the motion, Mr. Briggs, Mr. Bartholomew, Ms. Aston and Chairman Behrens answered "yes".  
**Motion carried, 4-0.**

Discussion ensued as to whether this should be presented to City Council re Ordinance 1127.10 Signs Permitted in Residential Districts. It was decided that this ordinance should be looked at again in light of recent developments in the City.

#### **ADJOURNMENT:**

Chairman Behrens asked if there was any further business the Board should address. There being no further business, motion by Ms. Aston and seconded by Mr. Briggs to adjourn. The meeting was adjourned at **8:20 p.m.**

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Diane Melsheimer, Secretary

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Jim Behrens, Chairman