

BOARD OF ZONING APPEALS

February 22, 2019

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. Briggs, Mr. Bartholomew, and Chairman Behrens. Ms. Aston and Mr. Callender were absent. Also in attendance were Assistant City Manager/Community Development Director, Doug Lewis; City Planner Lynn White; and the Secretary, Diane Melsheimer.

MINUTES: Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of November 15, 2018 meeting. There being none, he asked for a motion. Motion by Mr. Briggs, seconded by Mr. Bartholomew, to accept the Board of Zoning Appeals Meeting Minutes as written. Chairman Behrens asked the Secretary to call the Roll. On Roll Call, Mr. Bartholomew, Mr. Briggs and Chairman Behrens answered "yes". Motion carried, 3-0.

Chairman Behrens explained the procedures for the meeting and swore in those who planned on speaking for or against the variance request. 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. Mr. Behrens also explained that the votes tonight must be unanimous as there are only three members in attendance. In addition, Mr. Lyons, the City's Legal Counsel was absent, so there is no legal representation for the Board.

The Chairman asked that the first item be read into the record. Ms. White explained the matter before the Board which were the result of the following email:

Dear Board of Zoning Appeals,

I would like to formally request an extension of the approval of Refusal 2324 for property located at 955-985 Mentor Avenue. I will be requesting that it be approved by the BZA at the next meeting for another 300 days.

The application for funding is submitted on February 21, 2019 and the announcement of funding will be on May 15, 2019. We will need time to submit formal building plans after the engineering has been completed along with the traffic study requested by the Planning Commission.

Sincerely,

Mary E. Hada, The NRP Group, LLC
1228 Euclid Avenue 4th Floor, Cleveland, Ohio 44115

REFUSAL NO. 2324

APPLICANT: NRP Properties LLC

OWNER: Avenue Properties LLC

LOCATION: 955-985 Mentor Avenue

Parcel Numbers 15-C-036-J-00-002-0; 15-C-036-J-00-004-0) Acreage- 4.3

At the November 15, 2018 Meeting of the Board of Zoning Appeals, NRP Properties, LLC (Kent Outcalt) was granted a variance to Sections 1129.01 and 1131.05 (e) (5) of the Painesville Codified Ordinances for the construction of Senior Housing and a Senior Center at 955-985 Mentor Avenue. The variance, with stipulations concerning securing funds and landscaped parking areas within the required setback areas, was granted.

The City of Painesville has received a request from NRP Properties, LLC (Kent Outcalt) requesting an extension of the sixty-five (65) day requirement by which a permit or any business associated with an approved variance request must be submitted/addressed. The requested extension is for an additional 300 days, as funding submittal will be February 21, 2019; with announcement to be made May 15, 2019. Additional time is needed to submit formal building plans after the engineering has been completed, along with the traffic study requested by the Planning Commission.

This request is due to a hardship created by the Zoning code; not by the applicant. Ms. Mary Hada, 550 Trailwood Drive, Painesville was present, representing NRP Properties LLC. Each step of the Flow Sheet and the Timeline were explained by Ms. Hada. To support her request, she explained the actions to be taken at each of the three phases, by whom, and the approximate length of time it would take for the due diligence, and to go through each step of the phases. Mr. Behrens asked if NRP anticipates any design changes. Ms. Hada said they do; however, they are mostly internal and value engineering; nothing on the exterior. There are requirements by the State of Ohio that need to be addressed such as environmental clearance. They will need to do a transportation study and landscaping plan as stipulated by the Planning Commission.

Mr. Behrens asked if any correspondence was received for this request. Correspondence dated February 8, 2019 had been received from Joe and Claudine Dobbins, 954 Mentor Avenue in opposition to the Refusal 2321. Because it referenced the subject address, it was read. It is as follows:

Dear Ms. White and Zoning Board;

We are writing to you today, as tax paying residents of the last twenty years, to voice our opposition to yet another variance request by NRP Properties. It seems the board is going out of the way to make sure this development takes place despite the concerns of those in the surrounding neighborhood. This could explain why we and others have stopped attending the many hearings that just pick pick pick away at the requirements until one is left to ask; why do we have any requirements at all? Permitting one variance after another has neutered Painesville's already generous system of building codes at the cost of compromising one of the city's last decent neighborhoods.

When researching Painesville's Codified Ordinances, many could conclude that they exist to keep the city balanced, aesthetically pleasing, and safe, as well as, giving a chance to review the impact on existing infrastructures and property values. The zoning board of appeals is charged with this responsibility. With variance after variance being requested one could only conclude that the development will be below standard and is NOT PROPER FOR the property in the first place. If NRP's planning abilities are any indication of their management abilities; we are all in trouble.

We could go on and on with a list of safety, traffic, storm water and infrastructure concerns, but that would belabor the obvious. We just ask you to ask yourself two simple questions; 1) Would I want to live directly across the street from this? and 2) Would I want to live in NRP's below standard development? If either answer is no, then stop the madness and help maintain Painesville's future authority to direct the controlled development of its city.

Thank you;

Joe & Claudine Dobbins, 954 Mentor Ave

Discussion followed concerning what action, if any, the Board needs to take. Mr. Behrens stated that these issues stated in the Dobbins email were not a Board of Zoning Appeals issue, but a Planning Commission action that the Board of Zoning Appeals were made to act upon. Mr. Bartholomew asked if there was a precedence to act upon their letter. Mr. Lewis stated their letter will be made part of the official record and that although we understand their concerns, it is part of the Planning Commission and not an action of the Board of Zoning Appeals. Their letter does not alter the project. As part of the legal record, their letter will be acknowledged in the minutes.

Mr. Lewis stated that for projects of this size, very preliminary plans may take six to eight months. The sixty-five (65) day requirement may be acceptable for sheds and smaller projects but for complex projects a longer time is needed. Mr. Bartholomew suggested the Board consider having an expiration date as the November 21, 2019 meeting. Ms. Hada said they could pull permits before the November 21, 2019 meeting. NRP will then present drawings at the November 21st meeting.

Motion by Mr. Briggs, seconded by Mr. Bartholomew, to approve the extension request for Refusal 2324 to NRP Properties for an additional 300-days, the expiration date for this matter will be November 21, 2019. On Roll Call, Mr. Briggs, Mr. Bartholomew, and Chairman Behrens answered "yes". Motion carried, 3-0.

Chairman Behrens asked that the Notice for the next item be read into the record.

NEW BUSINESS/PUBLIC HEARING ITEMS:

REFUSAL NO. 2326

APPLICANT: NRP Properties LLC

OWNER: Avenue Properties LLC

LOCATION: 955-985 Mentor Avenue

(Parcel Numbers 15-C-036-J-00-002-0; 15-C-036-J-00-004-0) Acreage- 4.3

DISTRICT: B-1 Business/Residential District

VARIANCE: Section 1129.01: Height, Lot Area, and Minimum Floor Area Requirements

The City of Painesville has received an application from NRP Properties, LLC (Kent Outcalt) proposing a variance to Sections 1129.01, height, lot area, and minimum floor area requirements, of the Painesville Codified Ordinances. The applicant had proposed on Refusal 2321 to construct Senior Housing and a Senior Center at 955-985 Mentor Avenue; the refusal was approved with stipulations. Section 1129.01 requires a maximum building height of thirty-five (35) ft. in a B-1 Business/Residential District. The owner has requested a building height of forty (40) feet, and maintain a 6:12 roof pitch. A variance of five (5) feet is being requested.

Ms. Mary Hada, 550 Trailwood Drive, Painesville was present, representing NRP Properties LLC. Ms. Hada presented that when she put in the request, it was for forty (40) feet. However, the architect said it could be 36.5 feet to 37.5 feet if the 40 feet was not approved. The request was because they would like to have nine (9) foot ceilings in the units so that it would feel bigger. Drawings of the roof line were then presented by Ms. Hada. Discussion followed as to what exactly constitutes the height of the roof—midpoint, top or peak of the roof. Ms. White stated definition in the building code is the building height is a vertical distance from the grade to the highest point of the coping on a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable hip or gambrel roof. Discussion ensued regarding where the height is measured.

Mr. Warmington, Developer, 180-A Mentor Avenue, was then sworn in and attempted to clarify some of the issues concerning height. He explained that he thought the 35 foot height comes in to prevent large antennas from being installed on buildings. Mr. Lewis said the 35 foot limits the pitch.

Ms. White relayed information she received from the Building Official as to the height requirement and how it is measured.

Ms. Hada then presented a point of interest to the Board. She addressed the Community Room, Telemed Room, Activity Room and the walking path to the YMCA. She shared some ideas the builder was considering for the building.

There being no further discussion Chairman Behrens asked for a Motion. Motion by Mr. Briggs, seconded by Mr. Bartholomew, to grant Refusal 2326 as requested with the stipulation the architecture of the building meet the approval of the Design Review Board due to the increase in height. On Roll Call, Mr. Bartholomew, Mr. Briggs and Chairman Behrens answered “yes”. Motion carried, 3-0.

OTHER BUSINESS:

Chairman Behrens and Mr. Bartholomew wished to officially recognize the previous secretary, Tina Pomfrey, by thanking and acknowledging her years of service to the Board of Zoning Appeals.

Chairman Behrens asked if there was any further business the Board should address. There being no further business, the meeting was adjourned at 8:28 p.m.

Diane Melsheimer, Secretary

Jim Behrens, Chairman