

## BOARD OF ZONING APPEALS

March 18, 2021

**CALL TO ORDER:** The Board of Zoning Appeals met on Thursday, March 18, 2021, at 7:30 PM via video conference 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. Dunay, Ms. Aston, Mr. Briggs and Chairman Behrens. Mr. Bartholomew was absent. Also in attendance were Assistant Law Director, Jim Lyons; City Manager, Doug Lewis; and City Planner/Secretary Lynn White.

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

Chairman Behrens indicated the Board has two sets of minutes from previous meetings that require action by the Board. Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of December 17, 2020. There being no comments, Chairman Behrens asked for a motion. Motion by Mr. Dunay, seconded by Mr. Briggs, to accept the Board of Zoning Appeals Meeting Minutes of December 17, 2020. Chairman Behrens asked the Secretary to call the Roll. On Roll Call, Mr. Dunay, Mr. Briggs, Ms. Aston, 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 February 18, 2021. There being no comments, Chairman Behrens asked for a motion. Motion by Ms. Aston, seconded by Mr. Briggs, to accept the Board of Zoning Appeals Meeting Minutes of February 18, 2021. Chairman Behrens asked the Secretary to call the Roll. On Roll Call, Mr. Briggs, Ms. Aston, Mr. Dunay and Chairman Behrens answered "yes". **Motion carried, 4-0.**

### **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. 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. In addition, representatives of the City Administration are present; Mr. Lyons, the City's Legal Counsel, Mr. Lewis, the City Manager, and Ms. White the City Planner.

Chairman Behrens explained that the meeting is being recorded via Zoom and informed the applicants that the results of the meeting will stand as an official public hearing. He asked the applicants appearing via Zoom if they agree to the meeting being held in this matter. The applicants in attendance agreed with the meeting procedures.

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

Chairman Behrens moved to the first item on the agenda. He asked the secretary to read the application for Refusal No. 2362.

**Refusal No:** 2362  
**Applicant/Owner:** Ken Baxter Sr.  
**Location/PIN:** 81 Elevator Avenue (15-B-011-0-00-035-0 and 15-B-011-0-00-036-0)  
**District:** B-2; General Business District  
**Variance:** 1121.04 (b) Nonconforming Structures

An application has been submitted by Ken Baxter Sr. 81 Elevator Avenue Painesville, OH requesting a variance to Section 1121.04 of the Painesville Unified Development Code to allow the expansion of the existing building at 81 Elevator Avenue to exceed 110% of the existing footprint. In June of 2020 a variance was granted permitting a 1,800 square foot addition. Mr. Baxter has modified the design of the propose addition to include an additional 218 sq. ft. A variance to allow the construction of the revision to the proposed addition is required.

Chairman Behrens provided a summary of the information the Board received on this request. He asked the applicant to state their name and address for the record prior to presenting their case.

The applicant, Ken Baxter Sr. of 81 Elevator Avenue, stated that the plans he submitted in June of 2020 for a 40' X 45' building were incorrect. Mr. Baxter stated that he resubmitted the corrected plans for a 45' X 45' building.

Vice Chairman Briggs asked for clarification that the building, which was approved in June, has not been built and that these are the modifications to those original plans. Mr. Baxter responded yes, these are the modified plans he wished to go forward with, and that that construction has not yet commenced.

Chairman Behrens asked if there were any further questions from the Board. There being none, he asked if anyone would like to speak for or against this issue. There being none, Chairman Behrens asked if any correspondence was received on this matter. Ms. White replied she received an email from Nancy Stevens opposing the variance which was sent to the Board for their review.

Chairman Behrens asked the Mr. Lyons to discuss the multiple police reports for 81 & 91 Elevator Avenue, which is Mr. Baxter's business. Mr. Lyons stated that although there were quite a few calls to the police for incidents at the addresses, he didn't feel that the nature of the complaints had a bearing on the zoning request. Chairman Behrens stated that he agreed with Mr. Lyons's assessment.

Ms. White asked that the Board consider the recommended stipulation that prior to attaining the zoning permit and beginning construction, Mr. Baxter apply to have the two parcels of land he intends to build on be combined into one parcel, with one address. Mr. Baxter stated that he had no objections to the stipulation. Mr. Lyons stated that he was in favor of the stipulation as it might help to alleviate future issues. Chairman Behrens asked if there was a motion on **Refusal No. 2362**. Motion by Mr. Briggs, seconded by Ms. Aston to approve **Refusal 2362** with the stipulation that Mr. Baxter combine the two parcels he intends to build on one taxable parcel. On Roll Call for the motion, Ms. Aston, Mr. Dunay, Mr. Briggs, and Chairman Behrens answered "yes". **Motion carried, 4-0.**

The applicant was advised that the Code requires a waiting period of five (5) days to acquire a permit.

#### **ADJOURNMENT:**

Chairman Behrens asked if there was any further business the Board should address. There being no further business, the meeting was adjourned at 7:52 p.m.

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Tara Baumgartner, Secretary

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Jim Behrens, Chairman