

## BOARD OF ZONING APPEALS

May 20, 2021

**CALL TO ORDER:** The Board of Zoning Appeals met on Thursday, May 20, 2021, at 7:30 PM via video conference for their regularly scheduled 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, Mr. Bartholomew, Ms. Aston, Mr. Briggs and Chairman Behrens. Also in attendance were Assistant Law Director, Jim Lyons; City Manager, Doug Lewis; Assistant City Manager, Derek Feuerstein, City Planner Lynn White and Secretary Tara Baumgartner.

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

Chairman Behrens indicated the Board has a set of minutes from the previous meeting that require action by the Board. Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of March 18, 2020. There being no comments, Chairman Behrens asked for a motion. Motion by Ms. Aston, seconded by Mr. Dunay, to accept the Board of Zoning Appeals Meeting Minutes of March 18, 2020 as presented. Chairman Behrens asked the Secretary to call the Roll. On Roll Call, Mr. Dunay, Mr. Briggs, Ms. Aston, and Chairman Behrens answered "yes"; Mr. Bartholomew abstained. **Motion carried, 4-1.**

### **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, Derek Feuerstein, the Assistant 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. 2363.

**Refusal No:** 2363  
**Applicant/Owner:** Juliana Medeiros  
**Location/PIN:** 58 Frederic Street (15-C-011-A-00-011-0)  
**District:** R-1; Residential District  
**Variance:** 1125.03 (a) (2)

An application has been submitted by Juliana Medeiros of 58 Frederic Street requesting a variance to Section 1125.03 (a) (2) of the Painesville Unified Development Code. Section 1125.03 (a) (2) states the following; *Each dwelling unit shall have a minimum of two (2) enclosed parking spaces with such space not less than 12 feet by 22 feet in area and having a parking pad that consists of an approved impervious material.* The applicant indicates the required garage will not fit on the property with the five (5) foot setback requirement from the side property line. The proposal is to build a 12' x 16' shed in lieu of the required garage.

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, Juliana Medeiros of 437 Valley View Drive, Painesville, OH, stated that she is the trustee and owner of 58 Frederic Street and that her son currently lives in the home, and does not drive or own a car. She stated the property is one of the three smallest lots on the street and the required 12 X 22 garage will not fit on the lot without running into the site lines of the house and being an imposition to the neighbors. Ms. Medeiros explained that the house is in a trust, it is fully owned by me with the intention for him to live there permanently for the rest of his life. She stated there is not going to be a need in the future for a person to have a garage. She also stated that costs are going up and due to that she would like to put an even smaller shed than she originally proposed.

Chairman Behrens asked if there were any questions or comments from members of the Board. Mr. Briggs asked for clarification that the required garage would not fit on the property without violating the zoning ordinance for the setbacks. Ms. Medeiros stated that building a garage that meets the City's size

requirements would cut off access to her backyard completely and would violate the setback guidelines requiring a variance.

Chairman Behrens asked Ms. White to explain the change in the code regarding the required size of garages. Ms. White explained that prior to the code changing in October of 2019 homes were required to have one enclosed parking space and be a minimum of 10 X 20. The code rewrite in 2019 changed the minimum requirement for an enclosed parking space 12 X 22 to accommodate one car.

Chairman Behrens asked if there were additional questions from the Board. Mr. Briggs asked Ms. Medeiros if she was okay with Ms. White's stipulation that the shed color and style match the house. Ms. Medeiros answered that she liked things to match and was fine with the stipulation.

Mr. Dunay asked if the current structure was salvageable or if it needs to come down. Ms. Medeiros explained that the structure is leaning, has a large hole in the roof, and is rotting. She also stated that the cost to repair the existing garage was quite high.

Chairman Behrens asked if any correspondence was received on this matter. Ms. Baumgartner replied that she did not receive any correspondence.

Chairman Behrens asked if there were any other questions from Members of the Board. There being none, he asked if Members of the Administration had any questions or comments to add.

Mr. Lewis asked how long Ms. Medeiros has owned the property, to which she responded that she purchased it in November of 2019. Mr. Lewis asked what the current garage flooring and foundation was made of. Ms. Medeiros stated that the current structure is nothing more than an enclosed carport, and has no flooring, just a continuation of the driveway material and was constructed on cinderblocks. Mr. Lewis suggested that the Board consider adding a stipulation that if the home is sold in the future a garage would need to be constructed. He indicated that this has been done in the past for similar requests.

Mr. Briggs responded that he wasn't comfortable with that stipulation. Chairman Behrens asked for a legal opinion from the Assistant Law Director. Mr. Lyons gave the Board multiple options on how they could possibly proceed giving examples of the motions to vote on regarding the requested change in size and the stipulation on the appearance of the shed.

There being no further discussion, Chairman Behrens asked for a motion. Motion by Ms. Aston to approve **Refusal 2363** as proposed, 12 x 16, with a stipulation that the applicant receive prior approval of the shed before construction, and that it matches the existing exterior of the house. The motion was seconded by Mr. Dunay. Chairman Behrens stated that if the Board wishes to amend the size of the shed as requested by the applicant, a motion is required. Motion by Mr. Briggs to amend the size of the shed to 10 x 12, seconded by Mr. Bartholomew. Chairman Behrens asked the Secretary to call the roll to amend the size of the shed to the requested 10 x 12. On roll call for the amendment, Ms. Aston, Mr. Dunay, Mr. Briggs, Mr. Bartholomew, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

Chairman Behrens indicated that a motion was needed either for requiring a permanent shed with the filing of an affidavit of fact, or when the property is sold there has to be a garage built in place of the shed that meets the zoning requirements at that time. Motion by Mr. Briggs that an Affidavit of Fact would be filed at the Recorder's Office stating that a shed of the same size would remain permanently on the property. Ms. Aston seconded. Chairman Behrens asked the Secretary to call the roll. On roll call, Ms. Aston, Mr. Dunay, Mr. Briggs, Mr. Bartholomew, and Chairman Behrens answered "yes". **Motion carried, 5-0**

Chairman Behrens indicated the original motion is still on the floor which is the applicant is proposing a shed with a new size of 10 by 12; and an Affidavit of Fact will be filed at the Recorder's Office stating that a shed of the same size would remain permanently on the property. There being no further discussion, the secretary was asked to call the roll. On roll call, Ms. Aston, Mr. Dunay, Mr. Briggs, Mr. Bartholomew, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

The applicant was advised that her request was approved with the aforementioned amendments, and that the Code requires a waiting period of five (5) days to acquire a permit.

Chairman Behrens moved to the next item on the agenda. He asked the secretary to read the application for Refusal No. 2364.

**Refusal No:** 2364  
**Applicant/Owner:** Greg Pillar  
**Location:** 616 N. St. Clair Street (15-A-023-0-00-011-0)  
**District:** R-1; Single Family Residential District  
**Variance:** 1119.04 (e) (1) Detached Structures

An application has been submitted by Greg Pillar of 616 N. St. Clair St. requesting a variance to Section 1119.04 (e) (1) of the Painesville Unified Development Code. Section 1119.04 (e) (1) states the following; *Any accessory buildings or structures greater than 12 square feet shall comply with the following specific standards and conditions: (e) The maximum height shall be: (1) Sixteen feet or the height of the main structure, whichever is less in residential districts.* The applicant is proposing is to build an accessory structure with an overall height of eighteen (18) feet, which is two (2) feet above the permitted height of sixteen (16) feet. A variance of two (2) feet is being requested.

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, Mr. Greg Pillar of 616 N. St. Clair Street stated that he would like to add the extra height to the garage for cosmetic reasons, to add a car lift to the inside of the garage, and so that he can fit his camper in the structure.

Chairman Behrens asked Ms. White if there were any city requirements regarding the height of garage door. Ms. White stated that there were only requirements on the height of the garage itself, not the door.

Chairman Behrens asked if Members of the Board had any questions for the applicant. Mr. Dunay asked if the stipulations added during the July 2020 meeting regarding a business not being allowed to be run out of the structure needed to be added to this hearing. Ms. White responded that the stipulations placed on the request from the last hearing were filed as an Affidavit of Fact at the Recorder's Office. The stipulations are placed on the property so if the property were to be sold, a business operation from the garage would be prohibited.

Mr. Lyons commented that he thought that it would be a good idea to add the stipulations to this action as well. He indicated that an argument could be made that since the Board did not place the same stipulation on the request the second time, it must not be a valid stipulation. Mr. Lyons stated it is a good idea to put it in to avoid that kind of logic in the future.

Ms. Aston asked for clarification regarding the purpose of the car lift. Mr. Pillar responded that the lift would allow his to park two cars in the same space.

Chairman Behrens asked if any correspondence was received on this matter. Ms. Baumgartner replied that she did not receive any correspondence.

Chairman Behrens asked for additional comments or questions from Members of the Board. There being no further comments, he asked for a motion on this matter. Motion by Mr. Briggs, seconded by Mr. Dunay to approve **Refusal 2364** as submitted with the condition that a business is prohibited from operating from the accessory building and/or any accessory use utilizing equipment or a process which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation on the voltage off the premises. On roll call for the motion, Mr. Briggs, Ms. Aston, Mr. Dunay, Mr. Bartholomew and Chairman Behrens answered "yes"; **Motion carried, 5-0.**

The applicant was advised that his request was approved with the aforementioned amendments and 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 8:30 p.m.

---

Tara Baumgartner, Secretary

---

Jim Behrens, Chairman