

BOARD OF ZONING APPEALS

June 18, 2020

CALL TO ORDER: The Board of Zoning Appeals met on Thursday, June 18, 2020, at 7:30 PM via video conference and modified remote/"in-person" meeting 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 Ms. Rene Aston, Mr. Brian Dunay, Mr. James Bartholomew, Mr. Ryan Briggs, and Chairman James Behrens. Also in attendance were Assistant Law Director Jim Lyons; and City Planner/Secretary Lynn White.

ACTION ON MINUTES OF PREVIOUS MEETING:

Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of April 24, 2020. Chairman Behrens indicated a clarification is needed regarding the discussion of previous fence variances for security. He indicated the Health District gave the reasoning the fence was needed for security. There being no other 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 April 24, 2020 with corrections as indicated. Chairman Behrens asked the Secretary to call the Roll. On Roll Call, Mr. Dunay, Mr. Bartholomew, Mr. Briggs, Ms. Aston, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

Chairman Behrens welcomed the new Board Member, Mr. Brian Dunay, who was recently appointed by City Council.

MEETING PROCEDURE AND SWEARING IN:

Chairman Behrens explained that the meeting is being recorded via Zoom and informed the applicant that the results of the meeting will stand as an official public hearing. He asked the applicant if she is agreeing to the meeting being held in this matter. Ms. Sue Hale, representative for Refusal No. 2349, indicated she agrees with the meeting procedure.

Chairman Behrens explained the procedures for the meeting, and then swore in those who planned to speak 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.

Chairman Behrens moved onto the first item on the agenda. He asked the secretary to read the application for Refusal No. 2349.

NEW BUSINESS/PUBLIC HEARING ITEM(S):

Refusal No: 2349
Applicant/Owner: Sue Hale/Bomec International, LLC
Location: 694 North St. Clair Street (15-A-023-0-00-001-0)
District: R-1; SINGLE FAMILY RESIDENTIAL DISTRICT
Variance: 1119.05 (b) (1) B Fences.

An application has been submitted by Sue Hale of Bomec International, LLC requesting a variance to Section 1119.05 (b) (1) B of the Painesville Unified Development Code to allow the placement of a 6-foot high privacy fence within the front setback at 694 North St. Clair Street. Section 1119.05 (b)(1)B Fences, states the following: B. Fences within the front setback line of record or existing main building line whichever is less shall not exceed three feet in height. On corner lots, all sides adjacent to the right of way shall be treated as a front setback line. The applicant has erected 29-feet of the proposed fence within the front setback a variance is required to allow the fence to remain in the current location.

Chairman Behrens explained to the applicant the various documents that were sent to the Board on this request. He asked the applicant to state her name and address for the record, and if she had additional information to provide to the Board. Ms. Hale, 2229 4th Street, Santa Monica, CA, stated that she feels the fence keeps the vegetation from encroaching the yard and the side of the house. She indicated she would like to keep the fence with the posts towards the adjacent property (Department of Transportation) and the finished side towards the house. The adjacent property is not maintained, as it is full of trash and debris. The fence does not impact the neighborhood or restrict any visibility for pedestrians or vehicles.

Chairman Behrens asked if there were any questions from members of the Board on this matter. Mr. Bartholomew asked about the relationship with Bomec International. Ms. Hale indicated that she is one of the partners of Bomec International. Chairman Behrens asked who resides at this address. Ms. Hale replied she grew up in Painesville and she is buying homes and fixing them up. She is working with the local Veterans Association to find Veterans that need homes. She is renting the house at Section 8 rates to a Veteran, and I do not raise the rent every year. The Veteran can purchase the house at any time, and they are provided two years of her profit from the rent towards the down payment. She stated this accomplishes two things; helps a Veteran, and helps improve homeownership in Painesville.

Mr. Bartholomew asked who did the work on the fence. Ms. Hale responded she did. She was at the property and completed other improvements on the property.

Ms. Aston asked if the home is currently occupied. Ms. Hale replied yes, the house is occupied. Ms. Aston asked if the fence goes around the home. Ms. Hale responded the fence is only along the one side in the front.

Chairman Behrens asked if there were any other comments from members of the Board. There being none, it was noted there were no attendees for the public hearing on this matter. Chairman Behrens asked if there had been any correspondence on this request. Ms. White indicated no correspondence had been received.

Chairman Behrens asked for comments or questions from Assistant Law Director Lyons. Mr. Lyons asked the applicant how many houses have been purchased prior to this for her project. Ms. Hale stated this is the first purchase. She commented that she saves her money throughout the year as she pays cash for the house so even in a downturn, the property will not have to be sold due to hardship and displace the Veteran. She stated her plan is to purchase one per year.

Chairman Behrens asked the City Planner for additional comments. Ms. White indicated she did not have any additional comments. There being no further discussion, Chairman Behrens asked for a motion.

Motion by Ms. Aston, seconded by Mr. Briggs to approve Refusal 2349 with the City Engineer's recommendation that the fence be located two feet behind the sidewalk in order for the sidewalk plows to be able to plow the sidewalk without damaging the fence. On Roll Call for the motion, Mr. Bartholomew, Ms. Aston, Mr. Briggs, Mr. Dunay, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

Chairman Behrens moved onto the next item on the agenda. Chairman Behrens explained that the meeting is being recorded via Zoom and informed the applicant that the results of the meeting will stand as an official public hearing. He asked the applicant if he is agreeing to the meeting being held in this matter. Mr. Teddy Milbrandt, applicant for Refusal No. 2350, indicated he agrees with the meeting procedure.

Chairman Behrens explained the procedures for the meeting, and then swore in those who planned to speak 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. He asked the secretary to read the application for Refusal No. 2350.

Refusal No.	2350
Applicant/Owner:	Teddy Milbrandt
Location:	559 Glenwood Drive (15C-035-C-03-043-0)
District:	R-1; SINGLE FAMILY RESIDENTIAL DISTRICT
Variance:	1119.05 (b) (1) B Fences.

An application has been submitted by Teddy Milbrandt requesting a variance to Section 1119.05 (b) (1) B of the Painesville Unified Development Code to allow the placement of a 6-foot high privacy fence within the front setback at 559 Glenwood Drive. Clair Street. Section 1119.05 (b)(1)B Fences, states the following: B. Fences within the front setback line of record or existing main building line whichever is less shall not exceed three feet in height. On corner lots, all sides adjacent to the right of way shall be treated as a front setback line. The applicant is requesting the placement of approximately 73-feet of fence within the front setback. A 3-foot height variance is required at the proposed location.

Chairman Behrens reviewed the information provided to the Board and asked the applicant to present his case. Mr. Milbrandt, 559 Glenwood Drive, indicated the reason for the six-foot fence along the side and rear property boundary is for safety for his two-year old daughter and their German Shepard.

Chairman Behrens asked if there were any questions or comments from members of the Board on the information presented. Mr. Bartholomew commented that the child will eventually grow up and the need for the fence will not exist. You may move in a few years and the need for a fence this high will be gone. Mr. Milbrandt commented they plan to live at this location for a long time. He also indicated that although they live in a nice neighborhood they would like to protect their child from someone who may have bad intentions. The six-foot fence provides them with safety and privacy over the three-foot fence.

Chairman Behrens asked if there were any other comments from members of the Board. There being none, it was noted there were no attendees for the public hearing on this matter. Chairman Behrens asked if there had been any correspondence on this request. Ms. White stated she received a telephone call from the adjacent property owner, Danny Hedrick at 512 Hawkins, who stated he had no concerns or issues with the request. He indicated approximately 20-years ago there was a six-foot high fence around the property.

Ms. White explained the option for the property to comply with the fence requirements; placing the six-foot high fence at a 21-foot setback along the side yard. She also shared the photographs that were taken of the property. The fence contractor provided two options for the homeowner, Option A, shows a 6-foot high fence

around the entire rear yard; Option B, shows a 3-foot fence at the back corner of the house to the sidewalk, then increasing the height to 6-feet.

Chairman Behrens asked for comments or questions from Assistant Law Director Lyons. Mr. Lyons asked the applicant if Option B provided the protection for the homeowner. It was noted that Option A is what the applicant would like to have approved; the 6-foot high fence only. Mr. Milbrandt indicated that Option B was created due to the location of the stop sign. They did not want to create a visibility issue for vehicles.

Ms. Aston asked about the option of placing the fence at the 21-foot setback. Mr. Milbrandt indicated that they would like to have as much back yard fenced in for their enjoyment. The additional room would allow for play structures and possibly a pool at a later date.

Chairman Behrens asked if there were any other comments. There being no further discussion, Chairman Behrens asked for a motion. Motion by Mr. Briggs, seconded by Ms. Aston to approve Refusal 2350 with the City Engineer's recommendation that the fence be located two feet behind the sidewalk in order for the sidewalk plows to be able to plow the sidewalk without damaging the fence. On Roll Call for the motion, Ms. Aston, Mr. Dunay, Mr. Bartholomew, Mr. Briggs, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

Chairman Behrens moved onto the next item on the agenda. Chairman Behrens explained that the meeting is being recorded via Zoom and informed the applicant that the results of the meeting will stand as an official public hearing. He asked the applicant if he is agreeing to the meeting being held in this matter. Mr. Ken Baxter, applicant for Refusal No. 2348, indicated he agrees with the meeting procedure.

Chairman Behrens explained the procedures for the meeting, and then swore in those who planned to speak 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.

He asked the secretary to read the application for Refusal No. 2350.

Refusal No. 2348
Applicant/Owner: Ken Baxter Sr.
Location: 81 Elevator Avenue (15-B-011-0-00-035-0)
District: B-2; GENERAL BUSINESS DISTRICT
Variance: 1121.04 (b) Nonconforming Structures

An application has been submitted by Ken Baxter Sr. 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. Section 1121.04 Nonconforming Structures states the following: (b) a nonconforming structure ... may be expanded provided that the building footprint or height after the expansion does not exceed 110% of the existing footprint or height. Any such structure may be altered to decrease its nonconformity. The applicant is proposing to construct a 1,800 square foot (40' x 45') addition to the east side of the existing building. The proposed addition is greater than 110% of the current structure. A variance to allow the construction of the proposed addition is required.

Chairman Behrens reviewed the information provided to the Board and asked the applicant to present his case. Mr. Ken Baxter, 81 Elevator Avenue, explained that this area is somewhat a distressed area, he has spent the last few years trying to clean up the properties that he owns. The existing building is a mechanics shop. The addition will be used for the expansion of the current operations. He explained they offer vehicle upholstery repairs and the newer area will be a clean shop where the materials can be worked on without risk of damage.

Chairman Behrens asked if there were any questions from members of the Board. Ms. Aston questioned the concrete area at the back of the building. Mr. Baxter replied this area was used to store above ground tanks. He explained there are two areas that have these concrete pads. He remembers there were two tanks located there many years ago but does not know what was stored in the tanks. Mr. Baxter indicated the concrete pads will be cut and removed from the site.

Mr. Briggs asked how many employees are currently at this location and will the addition allow the creation for additional employees. Mr. Baxter responded the hope is to have two or three additional employees with the expansion.

Chairman Behrens asked if there were any further questions from the Board. There being none he asked if there were any correspondence on this matter. Ms. White stated that there were no correspondence. She indicated that due to the location and the mix of zoning districts and uses on this street, the area was looked at for complaints over the last year that may have come into the Police Department. The call volume for Elevator Avenue was presented to the Board. There was a total of 23 calls associated with traffic, noise, and speeding. The addresses for the complaints varied and were not specifically associate with the address of

the request. Ms. White explained that the addition to the building might assist with reduction of noise if the work is being done inside a structure rather than outside. Additionally, the expansion will be in the rear of the property near the railroad tracks which removes the activity away from the street as the current operations are located at the street. It was explained that the plans that were submitted are conceptual as the applicant wished to have his matter approved prior to hiring an architect to create plans. Mr. Baxter explained that the addition would allow for the operations to move away from the street frontage. He added that taller bay doors will allow the storage of recreational vehicles while they are working on them and the other bays will be used to store other vehicles to be worked on.

Chairman Behrens commented that he has not been on Elevator Avenue in quite some time, he visited the site and noticed how the area has improved. Mr. Baxter stated this is a very distressed area. He commented on the complaints noted from the Police reports. There is a hotrod shop at the end of the road and the cars that are speeding down the street come from there. The road is not in good shape and this keeps the speeding on the street down. He also stated there are a lot of calls that come in from the neighbors that are "false" complaints. He has talked with the Police Department on many occasions regarding the situation which they are hoping to address.

Ms. Aston questioned the parking and whether or not there is enough room for parking for both employees and customers. Mr. Baxter responded there is plenty of area for a parking lot. There is an area that is 45-feet by 100-feet that can support the parking area. Ms. Aston asked if the parking conforms to the code. Ms. White indicated the parking has not been addressed as the plan submitted was conceptual only. The property next door, the old Woodworth Feed Store, is owned by Mr. Baxter. If needed, a parking agreement could be created for an additional area to serve as parking for this property.

Chairman Behrens asked for comments from the Assistant Law Director. Mr. Lyons replied he had no comments. Chairman Behrens asked for additional comments from Ms. White. Ms. White added that other than the information included in the Memorandum, the nonconforming section of the code limits the amount of square footage a property can be enlarged. The proposed addition allows the owner of the property to create a more productive building. She commented that there is a concern there may be underground storage tanks in the location proposed for the addition.

Chairman Behrens asked for any additional comments or questions. There being none, he asked if there was a motion. Motion by Ms. Aston, seconded by Mr. Dunay to approve Refusal 2348 as requested. On Roll Call for the motion, Mr. Bartholomew, Mr. Dunay, Ms. Aston, Mr. Briggs, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

Chairman Behrens moved onto the next item on the Agenda.

Administrative Appeal

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.

The City of Painesville withdrew the demolition order for 223 Chestnut Street as the property was sold to an adjacent property owner. The new owner is aware of the pending unfit and unsafe living conditions condemnation order and indicated the property will be secured and evaluated.

BUSINESS OR ANY OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE BOARD OF ZONING APPEALS:

Mr. Bartholomew expressed concern on the maintenance of high grass and weeds on properties owned by the State of Ohio, particularly the property next to the freeway. Mr. Bartholomew made a motion, seconded by Ms. Aston, that the City Administration contact the Ohio Department of Transportation to address the areas within the City that are overgrown and not maintained on a regular basis. On Roll Call for the motion, Ms. Aston, Mr. Dunay, Mr. Bartholomew, Mr. Briggs, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

ADJOURNMENT:

Chairman Behrens asked if there was any further business the Board should address. Ms. White informed the Board that the Administrative Appeal that has been on the Agenda would not be heard until such time an "in-person" meeting can be held due to the nature of the Appeal. There being no further business, motion by Ms. Aston and seconded by Mr. Briggs to adjourn. The meeting was adjourned at **9:18 p.m.**

Lynn M. White, Secretary

Jim Behrens, Chairman