

## BOARD OF ZONING APPEALS

August 20, 2020

**CALL TO ORDER:** The Board of Zoning Appeals met on Thursday, August 20, 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 July 16, 2020. 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 July 16, 2020. 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.**

### **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.

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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. Mr. Douglas Lewis, representative for Refusal No. 2354, indicated he agreed with the meeting procedure.

Chairman Behrens moved to the one item on the agenda. He asked the secretary to read the application for Refusal No. 2354.

### **NEW BUSINESS/PUBLIC HEARING ITEM(S):**

**Refusal No: 2354**

**Applicant/Owner:** Painesville City

**Location:** 481 Storrs Street (15-A-002-0-00-017-0)

**District:** B-2; General Business District

**Variance:** 1119.05 (b)(2)B Fence Height.

An application has been submitted by the City of Painesville requesting a variance to Section 1119.05 (b)(2)B of the Painesville Unified Development Code for a fence at 481 Storrs Street (Permanent Parcel No. 15-A-002-0-00-017-0). The applicant is proposing to construct a six-foot high chain link fence, ten inches off the sidewalk along the Storrs Street property frontage. *Section 1119.05(b)(2) Nonresidential, states the following: B. Fences within 20 feet of a right-of-way or public street shall not exceed three feet in height.* A variance of three (3) feet is being requested.

Chairman Behrens asked the City to present the case. City Planner Lynn White explained the various documents that were sent to the Board on this request. Mr. Lewis, City of Painesville, 843 Homewood Drive, Painesville, OH stated that he is speaking on behalf of the City. The City is requesting a variance for the Storrs Street complex. the first reason for the variance includes safety and security. This is due to the extensive amount of supplies and equipment stored on-site. Photos were provided of the types of materials stored at the site. The second reason is the new fence would be connecting into existing fencing that is places approximately 10-inches from the right-of-way. Photos were provided of the existing fencing that is along the sidewalk along the Storrs Street frontage. The third reason is to retain the current height of 6-foot to maintain the consistency. The existing fencing is a green chain link. The fourth reason is the proposed fence is similar to the existing fencing directly across the street at the storage units and fencing in the area to include Avery Dennison, and Concord Road Equipment on Chester Street. The fifth reason is to provide screening of the buildings that are at this site. Some of the buildings are not in particularly good condition. The Public Works Department Building was recently demolished, and the fence was attached to the building. The removal of the building created a gap that needs to be secured. He explained that both new and existing fencing will improve aesthetics of the area as this will provide a screening of the buildings, materials, and vehicles on the site. Mr. Lewis explained the screening is a signature woven black webbing that provides 96% blockage. This is a high-quality vinyl coated polyester windscreen. This product stands up well to wind, sun, humidity, sand, dirt, abrasion, and cold. Additionally, the black color resists fading and has a 4-ply sewn hem with grommet

spacing of 2" on center all around. The sixth reason the fence location will provide additional temporary parking for employees or city vehicles and improve safety within the parking lot in the short term. The seventh reason is the City is currently examining feasibility of a new public service facility. Demolition of additional buildings are planned for the future. The Storrs Street Facility is home to Water Distribution, Electric Distribution, Public Service Department, and the Central Warehouse. A new facility is 3-8 years off. The extra room by moving the fence towards the right-of-way allows the site to have room as these changes occur over time.

Chairman Behrens asked when the current fence was erected at the site. Mr. Lewis indicated that he did not know. Chairman Behrens indicated that he was asking as there is no record noted in the Staff Report of the fence or the fence across the street at the storage facility which was built rather recently. The question was asked if a variance was granted for the installation of these fences. Ms. White responded that she thought the fence across the street was off the right-of-way which would not require a variance. There was discussion regarding the fence location and the omission from the Staff Report under the Similar Variances section.

Chairman Behrens stated that his question is why not put up a fence that is more decorative than a chain link fence. Mr. Lewis responded the fence is considered a temporary fence until a determination is made on where the new buildings will be located on the site. It may be necessary to move the ingress/egress locations and the plan is to have a large building constructed in the future.

Chairman Behrens asked if there were any questions from members of the Board. Mr. Dunay asked about the photo showing temporary fencing along the sidewalk at the property and if that was the location for the proposed chain link fence. Mr. Lewis replied yes, that is the location of the proposed fence. The posts that were installed will be used for the new fence if the variance is granted. Mr. Dunay indicated that he was concerned about the sidewalks and if the installation of posts would damage them. Mr. Lewis presented the photo showing the fence posts and explained how the new fence would be installed next to the existing fence. Mr. Dunay asked for clarification that the webbing will be installed on both the new and old fence sections. Mr. Lewis replied yes.

Ms. Aston ask to see the photo of the fence that is across the street. She stated the 6-foot high fence across the street does not have webbing. Just for consistency she felt the fence should be installed without the webbing. Mr. Lewis responded the fence can be done without the webbing. Ms. Aston asked about the facilities that are at the site. Are there people working out of the buildings? It almost sounds as if the site will become a large parking lot. Mr. Lewis responded that the site has facilities that are occupied; however, the City needs to demolish some of the existing buildings and plan the site for future buildings. He stated the current Electric Distribution building (red) is currently being used for storage as it is not in good condition. The new facility that was recently constructed is the new location for this department as well as the Public Works Department which is the building that was just demolished. There was discussion regarding the use of the existing buildings located on the site and the future plan for demolitions. Ms. Aston reiterated that for consistency of the aesthetics for the area, she would like to see the webbing not used at this site as it was noted this was an option.

Chairman Behrens asked if there were any questions from members of the Board. Mr. Bartholomew asked how many buildings are currently at the Storrs Street Complex. Mr. Lewis replied eight. Mr. Bartholomew asked, of those eight, how many will be removed for the new facility. Mr. Lewis replied approximately six. Mr. Bartholomew stated that in the future the city would have the ability to construct the site in a manner to negate the fence at this location. Mr. Lewis responded that he does not know that for sure as the site has not been configured yet. There was discussion about the possible reconstruction of the site that would create a barrier from the right-of-way and the chain link fence would no longer be needed.

Mr. Bartholomew commented that this request is being compared to the fence that is across the street. The Board does not have information on the installation on that fence and whether or not a variance was granted for the installation. He stated that if that fence is in violation of the code then this could be a problem particularly since the request from the City is using the fence as evidence for granting the variance. The other issue is the entity that is to determine that was is across the street has been permitted and in violation is the entity using it as evidence to grant the variance. Mr. Lewis stated that it may not be in the information, but he knows that they received approval to do that project. Mr. Bartholomew stated he just wanted to be sure the City understands his point of view. He commented that if this request were for a different applicant, he would be asking for this matter to be tabled until there was information on the fence across the street. Discussion ensued regarding the placement of the fence across the street. Mr. Lyons commented normally when you look at a law or something that had happened in the past that a government approved, the procedure in the law is that things were done on a regular basis and they received the proper approvals. The issue is whether or not the fence should be 6ft or 3ft high. Seems to me this request is similar to the Concord Road Equipment request as the request was to protect the vehicles and equipment located on the property.

Chairman Behrens asked if there were any other questions 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 she received a phone call from Mr. Tom

Falcone, Redi Go Food Mart, who is the adjacent property owner at 444 North State Street. Mr. Falcone was concerned about the placement of the fence and his access to his building and parking at his site. Mr. Falcone stated that after discussion with Mr. Lewis at the site, he was comfortable with the request and not opposed to the fence and agreed the higher fence would provide the needed security for the site.

Chairman Behrens asked if there were additional comments or questions. There being none, he 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 Mr. Briggs, seconded by Mr. Dunay to approve Refusal 2354. On Roll Call for the motion, Mr. Briggs, Ms. Aston, and Mr. Dunay, answered "yes"; Mr. Bartholomew and Chairman Behrens answered "no". **Motion carried, 3-2.**

**ADJOURNMENT:**

Chairman Behrens asked if there was any further business the Board should address. There being no further business, Chairman Behrens asked for a motion. Motion by Mr. Dunay and seconded by Ms. Aston to adjourn the meeting. All members present responded "aye"; Motion carried. The meeting was adjourned at **8:36 p.m.**

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Lynn M. White, Secretary

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Jim Behrens, Chairman