

BOARD OF ZONING APPEALS

October 19, 2017

The Board of Zoning Appeals convened in Courtroom No. 1 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. Bartholomew, Ms. Aston, Mr. Callender, Mr. Briggs and Chairman Behrens. Also in attendance were Assistant Law Director, James Lyons; City Planner, Lynn White; Assistant City Manager/Community Development Director, Doug Lewis, and the Secretary, Tina B. Pomfrey.

Chairperson Behrens welcomed the new member to the Board of Zoning Appeals, Mr. Ryan Briggs.

MINUTES: Chairman Behrens asked for additions or corrections of the minutes of the Board of Zoning Appeals Meeting of August 17, 2017 meeting. There being none, he asked for a motion. Motion by Ms. Aston, 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. Callender, Ms. Aston, Mr. Briggs and Chairman Behrens answered "yes". Motion carried, 5-0.

Chairman Behrens explained the procedures for the meeting and swore in those who planned on speaking for or against the variance request.

The Chairman asked the Secretary to please read the notice:

NEW BUSINESS: (Public Hearing)

REFUSAL NO. 2305

APPLICANT: Randy B. Silver

DISTRICT: R-1 Single Family Residential District

LOCATION: 488 East Erie Street
15-A-005-0-00-040-0

VARIANCE: Section 1139.03 (a); 1131.02 (a) & (d)

An application has been submitted by Randy B. Silver, 159 Coventry Drive, Painesville, requesting a variance to the required front setback for the property located at 488 East Erie Street. Section 1139.03 (a) prohibits an alteration of a nonconforming structure that increases its nonconformity. Section 1131.02 (a) & (d) establishes setback requirements. The applicant enclosed a nonconforming front porch that is located 15 feet into the front setback. A variance of five (5) feet is being requested.

Mr. Randy Silver, 159 Coventry Drive, Painesville, was present for the meeting. Mr. Silver said that he and his father own the property at 488 East Erie Street. He indicated that he enclosed an existing porch at that location because there is a basement under the porch where water seeps into the house. Several porches in the neighborhood have enclosed porches. Mr. Silver stated the parcel was derelict before he bought the property and has spent a great deal of money renovating the house.

Mr. Behrens asked the applicant if this is the first time he has enclosed a porch. Mr. Silver replied it is the first porch in Painesville that he has enclosed. He said he works mostly as a painter and in his line of work, permits are not generally required.

Mr. Bartholomew asked the applicant the number of permits he has for the property. Mr. Silver replied that he was issued permits for roofing, siding, driveway, electric and porch repair. He said he received a permit to repair the porch but wasn't aware that he was required a separate permit to enclose it.

Mr. Lewis asked the date the porch was enclosed. Mr. Silver replied he acquired the house in October 2015 in a sheriff's sale and enclosed the porch the following winter.

Chairman Behrens if there were comments from the audience or the neighborhood. There being none, he asked for the comments from the Administration. City Planner Lynn White indicated that the information submitted in her packet to the Board includes the Lake County Auditor GIS photo. Using the GIS program, she explained how she determined the average setback of the homes along East Erie Street and arrive at the setback information contained in the memorandum. She said that Mr. Silver has already submitted plans to the Building Department to install the porch enclosure, but is unable to acquire the permit until the Board acts on the variance request.

She also included photos of the various homes in the neighborhood. She acknowledged that, in the City, it is not uncommon for homes to have basements built beneath the front porches. In June, the Board granted a variance request to enclose a similar porch at 51 East Walnut Street. A recommended stipulation was to match the enclosed exterior of the porch to the siding of the house. In that case, the owner applied for the building permit before enclosing the porch and is currently constructing the enclosure. Since Mr. Silver has already installed the enclosure to his porch, Ms. White said she is not certain if the exterior can be modified to match the body of the home.

There being no further discussion, the Chairman asked for a motion. Motion by Mr. Callender, seconded by Ms. Aston, to grant Refusal 2305 as requested. On Roll Call, Mr. Callender, Ms. Aston, Mr. Bartholomew, Mr. Briggs and Chairman Behrens answered "yes". Motion carried, 5-0.

The applicant was advised that he must wait five (5) days to acquire his building permit with the City.

Chairman Behrens moved to the next item on the Agenda. He asked the Secretary to please read the notice.

REFUSAL NO. 2306

APPLICANT: Brian Nebelski for Western Reserve Community Development Corporation, Inc.

DISTRICT: R-1 Single Family Residential District

LOCATION: 236 Luary Drive
15-C-015-0-00-012-0

VARIANCE: Section 1137.03 (b) (2)

An application has been submitted by Brian Nebelski for the Western Reserve Community Development Corp., 89 Chester Street, proposing a variance to Section 1137.03 (b) (2) of the Painesville Codified Ordinances. Section 1137.03 (b) (2) requires a minimum of one enclosed parking space for every single family dwelling unit. The property at 236 Luary Drive does not have a garage.

Mr. Brian Nebelski, 16575 Joanne Drive, Montville, Ohio was present for the meeting, representing the Western Reserve Community Development Corporation. He indicated the WRDCD was previously granted a variance of Section 1137.03 (b) (2), however, it was not acted on within the time frame set forth by the Zoning Code, and therefore, the variance expired. He said he is appearing before the Board to request the same variance granted earlier in the year.

Discussion ensued regarding meeting setback requirements if the applicant were permitted to install a shed in place of the garage. Because of the lot size, the applicant modified his variance request to allow installation of a shed two (2) feet off the side and rear property lines. The applicant stated that there is a large deck attached to the house that makes it difficult to meet the setback requirements, even with a small 5 ft. x 5 ft. shed.

Mr. Lyons suggested tabling the request until notice is sent to the adjacent property owners notifying them of the modification to the variance request.

Mr. Bartholomew asked if a larger shed would be more reasonable to install on the property. Mr. Nebelski replied that a 5 ft. x 7 ft. shed would be an adequate size for the property.

Motion by Mr. Bartholomew, seconded by Mr. Callender, to table Refusal 2306 to allow for notification to the adjoining property owners until the next regularly scheduled Board of Zoning Appeals Meeting due to an amendment to the request being sought by the applicant for the side and rear setbacks to be waived. On Roll Call, Ms. Aston, Mr. Bartholomew, Mr. Callender, Mr. Briggs and Chairman Behrens answered "yes". Motion carried, 5-0.

Chairman Behrens moved to the next item on the Agenda. He asked the Secretary to please read the notice.

REFUSAL NO. 2307

APPLICANT: Ruff Neon & Lighting Maintenance for Morley Library

DISTRICT: B-2 General Business District

LOCATION: 184 Phelps Street
15-A-015-0-00-018-0; 15-A-015-0-00-039-0

VARIANCE: Section 1341.11 (c) (13)

An application has been submitted by Jessica Ruff of Ruff Neon & Lighting Maintenance for Morley Library, 184 Phelps Street, proposing a variance to Section 1341.11 of the Painesville Codified Ordinances. The applicant is proposing to install an Electronic Message Center sign at the property located at 184 Phelps Street. Section 1341.11 (c) (13) of the Painesville Sign Code prohibits EMC sign installation facing any historic district.

City Planner Lynn White reviewed the suggested stipulations for the particular zoning request regarding the sign design. Additionally, she pointed out the questions that she gave to the sign company regarding the operation of the EMC signs.

Ms. Jessica Ruff, 295 West Prospect St, provided modifications of the sign to the Board (Exhibit A) to address the concerns of the Administration regarding the design of the sign in the Downtown Historic District. Ms. Ruff stated that the changes in the sign include incorporating some features of the building into the cabinet design so that it relates better to the library structure. She added that the sign is completely programmable and will meet the requirements of the Sign Code. The top of the sign is an LED illuminated, stationary sign, while the bottom portion is the electronic message center.

Mr. Briggs questioned whether there will be rotating or animated features on the sign. Ms. Aurora Martinez, Director of Morley Library, 184 Phelps Street, replied no; only static slides. She stated that the message center will run all library related announcements. It will follow the format of the library website, running slides to convey all information.

Ms. White outlined the boundaries of the various Design Review Districts for the Board. She clarified that the Downtown Design Review District became the Historic Downtown Design Review District in 2016 in support of the Downtown Painesville Organization (DPO) and their mission to create an Ohio Main Street Program in downtown Painesville. Although the location of Morley Library is zoned B-2 General Business, and EMC signs have been permitted in the B-2 District since 2009, the "historic designation" precludes installation of EMC signage.

Chairman Behrens questioned if Morley Library, being a member of the DPO, understood the possible consequences of the change in the historic classification. Ms. Martinez replied that she thought about the change with regard to architecture and did not consider repercussions regarding signage. Ms. Martinez added that since becoming the Library Director in 2016, it has always been her intention to install a sign at Morley Library to promote library services, and she should have paid closer attention to what the changes would mean.

Ms. White reviewed signage at other libraries in the area. Discussion ensued regarding location of the current wall signage at Morley Library. The engraved wall signage is on the façade at the third floor level and is not readily visible to people on the street. Mr. Bartholomew asked if patrons cannot find the library. Ms. Martinez stated that it is quite common that the library cannot be located, especially from those that are coming from outside the immediate area. The interest is getting a sign that is street level so that people can actually locate the building.

Mr. Callender stated that his objection was only to the EMC portion of the sign. Mr. Briggs stated he too has some reluctance toward EMC signage and asked if there is any data available that proves that EMC signs are more effective than standard signage.

Ms. Martinez replied that she does not have statistical data for the Board; however, she has worked 17 years in the library sciences. She declared that other libraries have them because promoting informational services to patrons is essential to a library's success. The EMC signs are a great way to dispense information and a great marketing asset to libraries. Mr. Lewis, the Assistant City Manager, stated documentation exists showing the effectiveness of EMC signage, as submitted in previous BZA meetings.

Discussion ensued regarding "way-finding signage". Mr. Lewis mentioned that the City has researched way-finding signage and would like to work with the County to develop that type of signage that would be appropriate for the Downtown District. Discussion also ensued regarding the location of the proposed EMC sign on the library property. Ms. Ruff stated that the EMC sign would be located 156 inches from the edge of the sidewalk to the curb.

Mr. Lyons asked the number of public buildings that are included in the historic district, not including the City and County buildings. Ms. White stated there are no other government buildings than those mentioned. Mr. Lyons stated that another purpose of the EMC sign would draw the public into the building. He asked Ms. Ruff if the screen of the EMC is similar to a high definition television. Ms. Ruff replied yes. He asked the size of the sign screen. Ms. Ruff replied it is 37 inches x 53 inches, equivalent to a 90 inch television. Mr. Lyons asked if the screen could

be reduced, if needed, to possibly 60 inches. Ms. Ruff replied yes. Ms. White indicated that a smaller screen might be desirable so that it does not face road hazards, such as snowplows.

More discussion ensued regarding the placement of EMC signs in the historic district. Mr. Callender stated that he is against installation of an electronic board in the historic district and believes it opens the door for installation at other locations in the historic district. Additionally the Code prohibits them. Mr. Lyons replied that sometimes when laws are written, unintended consequences arise. The applicant could approach Council regarding changing the Code to allow the EMC signs within the B-2 zoning districts that are located in historic areas.

Mr. Bartholomew asked Ms. Martinez how effective use of the library is measured. Ms. Martinez said by foot-traffic, which is strong, however usage of books is decreasing, following the national trend. The meeting rooms are well used for educational groups as well as library functions. The hope is that the signage will draw those who have not previously used the library to increase their awareness of what the library has to offer and increase card holders.

Mr. Bartholomew asked, if the sign would be in compliance with the sign code, were not an EMC. Ms. White replied yes, it would meet the free-standing size allowable in the district.

Mr. Bartholomew stated that, as a former educator, he would like to distinguish the library as an educational institution and based on that fact, permit the signage without introducing a way for other businesses to ask for the same consideration. Mr. Lyons stated that the City Planner outlined the factors to consider in granting the variance request in her memo to the Board. One of the factors to consider is if the variance request arrives from a unique condition not ordinarily found in the same zoning district and is created by the zoning code and not from the action of the property owner or the applicant. Mr. Lyons said, in his opinion, libraries are unique. Whenever a variance is granted, it is based on the facts of that particular variance. It does not mean that others will be given the same consideration when appearing before the Board. Mr. Lyons admitted that he understands the reluctance of the Board to challenge the Code. The Board might considering tabling the request to ask Council to clarify their position.

Chairman Behrens asked if there was correspondence from the neighborhood. There being none, he asked for a motion. Motion by Mr. Briggs, seconded by Mr. Bartholomew, to approve the variance as requested. Motion by Mr. Callender, seconded by Ms. Aston, to table Refusal 2307 until the next regularly scheduled Board of Zoning Appeals Meeting. The tabling of the request will allow the Administration to address the intent of City Council as it relates to the Historic District and electronic message center signage. On Roll Call, Mr. Bartholomew, Mr. Callender, and Ms. Aston answered "yes". Mr. Briggs answered "no". Chairman Behrens answered "yes". Motion carried, 4-1.

Ms. White indicated that the Administration will approach Council regarding the intentions of the Sign Code and will hopefully have clarification for the Board by the next regularly scheduled BZA meeting.

Chairman Behrens asked if there was any further business the Board should address.

OTHER BUSINESS:

Mr. Callender thanked the Board for the contribution to the Hospice of the Western Reserve in his wife's name.

There being no further business, the meeting was adjourned at 9:04 p.m.

Jim Behrens, Chairman

Tina B. Pomfrey, Secretary