

BOARD OF ZONING APPEALS

March 17, 2022

CALL TO ORDER: The Board of Zoning Appeals met on Thursday, March 17, 2022, at 7:30 PM in Courtroom 1 of City Hall.

Chairperson Behrens 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; City Planner Rita McMahon, and Secretary Tara Baumgartner.

ACTION ON MINUTES OF PREVIOUS MEETING:

Chairman Behrens indicated the Board had a set of minutes from the previous meeting that required action by the Board. Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of January 20, 2022. 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 January 20, 2022. 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.**

OLD BUSINESS:

Motion by Mr. Briggs, seconded by Mr. Dunay to dismiss the Appeal of Order to Demolish an Unsafe Structure for 141 E. Jackson Street due to the property recently having been sold and the new owners entering into an agreement with the City. 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.**

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, City Manager Doug Lewis, and Ms. McMahon the City Planner.

Chairman Behrens explained that the meeting is being recorded and informed the applicants that the results of the meeting will stand as an official public hearing. He asked the applicants if they agree to the meeting procedures. 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. 2377.

Refusal No: 2377
Applicant/Owner: Michael and Michelle Rebenock
Location: 420 Heisley Park Lane (35-A-005-A-00-083-0)
District: R-2; Multi-Family Residential District
Variance: 1117.01(a) Setbacks for main structure

An application has been submitted by Michael and Michelle Rebenock requesting a variance to Section 1117.01 (a) of the Painesville Unified Development Code to allow the construction of a covered porch that would extend into the required rear setback. Section 1117.01(a) establishes a rear setback of 25 feet for single family structures in the R-2 Zoning district.

The applicant is requesting the placement of a covered porch over an existing patio that is approximately 27-feet by 16 feet and attached to the main structure. The porch cover will extend 5 feet into the required rear setback. A five-foot variance is 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, Michael Rebenock of 420 Heisley Park Lane explained that he would like to extend the roof over his existing patio, which would allow the gutters to drain down and avoid the pool edge. He stated that there's a HOA owned common area behind his property that would provide a significant buffer.

Mr. Briggs asked if Mr. Rebenock had asked permission from his HOA. Mr. Rebenock stated that he had. Mr. Briggs then asked if the structure would be open or closed. Mr. Rebenock stated that it would be open.

Mr. Lyons stated that it would be a good idea to require the applicant to file an Affidavit of Facts with the county.

Ms. McMahon stated that the city would like it to remain open and agreed with Mr. Lyons that they would like an Affidavit of Fact.

Motion by Mr. Briggs, seconded by Mr. Dunay to approve the variance request with the following stipulations:

- A. The patio shall remain open and no future variance shall be requested to enclose the patio area.
- B. An affidavit of fact shall be recorded with the Lake County Recorder

On Roll Call for the motion, Ms. Aston, Mr. Dunay, Mr. Briggs, and Chairman Behrens answered "yes" **Motion carried 4-0.**

Chairman Behrens then moved on to the next item on the agenda.

Refusal No: 2378
Applicant/Owner: Anthony Zappitelli RNC LLC
Location: 735 S. State Street (15-B-020-0-00-011-0)
District: B-2 General Business District
Variance: Sections 1113.03, 1125.10(b)(1), 1125.03(b)(1), 1119.01(a)(4), 1119.05(b)(2)(B), 1119.12(a) and 1119.07(a) (k) and (l)

An application has been submitted by Anthony Zappitelli requesting variances to Sections 1113.03, 1125.10(b)(1), 1125.03(b)(1), 1119.01(a)(4), 1119.05(b)(2)(B), 1119.12(a) and 1119.07(a) (k) and (l) of the Painesville Unified Development Code to allow the redevelopment of an existing former gas station and commercial storefront into a seasonal ice cream and grille business at 735 S. State Street. Due to the unique shape of the parcel variances are requested to the following sections of the code:

- The front setback 10 ft. and 3 ft. (1113.03) in lieu of 25 feet from both S. State and Bank Street;
- The parking setback (1125.10(b)(1)), of 5 feet in lieu of 10 feet;
- The parking space size (1125.03(b)(1)) of 9 feet wide in lieu of 10 feet and 162 sq. ft. in area in lieu of 200 sq. ft.;
- Dumpster within the front setback at 5 ft. (1119.01(a)(4)) in lieu of in the rear setback;
- A 6 ft. fence around dumpster in front setback in lieu of 3 ft. (1119.05(b)(2)(B));
- A Patio extending to the sidewalk (1119.12(a)) which is more than 10 feet into the front setback; and
- A request to allow the outdoor dining area to be larger than the indoor dining area and accessed from the sidewalk (1119.07(a), (k) and (l)).

Jeff Smith, the architect for the project explained that the property was formerly a service station and has been empty for some time. He stated that he sees this as an opportunity to enhance the area, which is a gateway to the city and create a neighborhood gathering place. He stated that they'd like to make it very pedestrian friendly and extend the sidewalks and add crosswalks. He explained that the shape of the parcel makes it challenging, which is why there are asking for variances.

Mr. Behrens asked if they foresee parking being an issue with the smaller spaces being requested. Mr. Smith answered that he didn't see it being a problem, as they usually work with 9x18 spaces in other cities. He stated that if they don't get the parking variance, they won't be able to put in the planned landscaping, which would help with traffic flow.

Ms. Aston asked if the dumpster would be enclosed. Mr. Smith stated that it would be screened by a board and batten screen. Ms. Aston asked if that would create a blind spot. Mr. Smith answered that it would not. Ms. Aston asked if the parking lot would have lighting. Mr. Smith answered that they hadn't gotten that far, but that there was existing lighting on the street. Ms. Aston asked if they would be putting in an additional traffic lights and crosswalks. Mr. Smith answered that they would not be adding an additional traffic light, but they would be adding a crosswalk.

Mr. Behrens asked where customers would place their order. Mr. Lewis answered that orders will be placed inside.

Ms. Aston asked if employee parking would take up space. Mr. Smith answered that that was one of the reasons they asked for the parking variance.

Mr. Dunay asked if the City had any concerns with the increase in traffic in the area. Mr. Lewis answered that it's already a heavily trafficked area. Ms. McMahon stated that by designating entrances and exits and moving further back from the five points it'll make traffic predictable.

Mr. Briggs asked if the variances weren't granted what could they do with the property. Mr. Smith stated that they wouldn't be able to do food service, which is what they're interested in. He stated that the existing building is very challenging.

Mr. Bryan, Mr. Zappatelli's attorney, stated that Mr. Zappatelli was born and raised in Painesville and is now a successful business man. He stated that their plans for the property would have a much more positive impact on the area than letting it sit vacant. He stated that this would serve as a significant investment in the city and would improve one of the major entrances into the city.

Mr. David Wafford of 824 Bank Street stated that he's concerned with the traffic in the area and stated that it's an extremely busy intersection and there are more accidents in the summer. He stated that there are a lot of pedestrians in the area. He was also concerned with the parking lot lights and the noise of the dumpster bothering residents. He asked what the dumpster would be screened with. Mr. Smith answered that it was a prefabricated screen that's made for screening dumpsters from view and built to withstand heavy use. Ms. McMahon stated that the lighting hasn't been determined yet and that the city was very much aware of the traffic in the area.

Mr. Lewis stated that the City has been working with Mr. Zappatelli for almost a year to try to minimize the variances needed.

Ms. McMahon stated that it was a unique property and that since Mr. Zappatelli purchased the property the city has made numerous changes to the code that put restrictions on the development of the property. She stated that the applicant has done a good job of trying to keep to the spirit of the code and that the city recommends granting the variances with the added stipulation that the landscaping plan as presented shall be installed as part of the development and that the variances be adopted as a group because they work together.

Motion by Mr. Briggs, seconded by Ms. Aston to approve the variance requests with the following stipulations:

- The front setback 10ft. and 3ft. (1113.03) in lieu of 25 feet from both S. State and Bank Street
- The parking setback (1125.10(b)(1)), of 5 feet in lieu of 10 feet;
- The parking space size (1125.03(b)(1)) of 9 feet wide in lieu of 10 feet and 162 sq. ft. in area in lieu of 200 sq. ft.;
- Dumpster within the front setback at 5 ft. (1119.01(a)(4)) in lieu of in the rear setback;
- A 6 ft. fence around dumpster in front setback in lieu of 3 ft. (1119.05(b)(2)(B));
- A Patio extending to the sidewalk (1119.12(a)) which is more than 10 feet into the front setback; and
- A request to allow the outdoor dining area to be larger than the indoor dining area and accessed from the sidewalk (1119.07(a), (k) and (l)).
- The landscaping plan as presented shall be installed as part of the development

On Roll Call for the motion, Ms. Aston, Mr. Dunay, Mr. Briggs, and Chairman Behrens answered "yes" **Motion carried 4-0.**

ADJOURNMENT

Chairman Behrens asked if there was any further business the Board should address. There being no further business, the meeting was adjourned at 8:24 p.m.

Tara Baumgartner, Secretary

Jim Behrens, Chairman