

Board of Zoning Appeals
April 19, 2018
Minutes

The Chairman called the meeting to order at 3:02PM. The following members were present: Mr. Dan Delahunt, Mr. Kevin Zeiher and Chairman John Feick. Dr. Semans and Mr. Matthews were excused. Mr. Jeff Keefe represented the Public Works Department; Ms. Casey Sparks, Ms. Angie Byington and Mr. Greg Voltz represented the Planning Department; Mr. Trevor Hayberger represented the Law Department and Debi Eversole, Clerk from the Community Development.

Mr. Zeiher moved to approve the minutes from the March 15, 2018 meeting as written. Mr. Delahunt seconded the motion. The motion carried with a unanimous vote.

The Chairman swore in staff and audience members that wished to speak on any agenda items.

Ms. Sparks presented that Joseph Hayberger, on behalf of Martha Ebner had applied for several variances to the properties of 1401 Camp Street and 1412 Sandusky Street. The property is currently zoned R2F. The applicant currently owns both properties but is looking to sell 1401 Camp Street. Mrs. Ebner currently utilizes the garage and has an indefinite easement that allows her access. The buyer is looking to split the garage off of the Camp Street property and combine it with the Sandusky Street property. This would result in the necessity of the following variances.

1. A variance of 773.42' to allow the creation of a non-conforming lot at 1401 Camp Street. This variance would also take the 1412 Sandusky Street property from a non-conforming status to a conforming status.
2. A variance of 2.2' to allow an existing accessory structure on 1412 Sandusky Street to be 12.8' from the dwelling at 1401 Camp Street.
3. A variance to allow an accessory structure to be located within the side yard on 1412 Sandusky Street.

Staff recognized that the lot split/ combination will create a non-conforming lot on 1401 Camp Street, however the result will create a conforming lot at 1412 Sandusky Street.

Staff also recognizes that this is a unique situation in which property owner does have an access easement to the garage and property which could make selling the property difficult.

Staff recommended approval of the variances with the following conditions:

1. All building and zoning permits are to be obtained
2. All federal and state laws are to be observed

Joseph Hayberger, 4308 Westwind Way stated that he is the realtor of this property and that he had spoken to the a Title Agency that told him that he could not get Title Insurance for the 2 family home with the easement in place.

Mr. Delehunt asked where the ingress and egress is. Mr. Hayberger stated that it is currently on the Sandusky Street property.

Mr. Zeiher asked if there would be any parking difficulties on the Camp Street property. Ms. Sparks stated that there is off street parking for this property. She added that the garage had almost always operated with the property on Sandusky Street.

Mr. Delehunt asked if there were any neighbor's concerns with the lot split. Ms. Sparks stated that the surrounding neighbors within 300' were notified and she had not heard anything.

Mr. Zeiher asked if there were any legal issues that needed to be addressed. The applicant stated that there were none.

Mr. Zeiher moved to approve all of the variances as submitted. Mr. Delahunt seconded the motion, which carried with a unanimous vote.

Ms. Sparks stated that Cedar Point LLC had submitted an application for a variance to allow commercial structures within a special flood hazard area at One Cedar Point Drive. They were presented separately by Mr. Jeff Keefe, representing the Public Works Department.

- The Chick-Fil-A Building Improvements: The applicant proposed to use the existing structure within the Flood Plain and below the Flood Protection Elevation. The floor is above the Base Flood Elevation but it is not feasible to raise the floor elevation or equipment to be above flood protection elevation. This structure will not be used in the event of flooding, as the entire park would be closed during that event. Engineering Staff recommends approval of this variance as Staff and Cedar Point have been coordinating on this and future projects so that if required, they will submit for variances earlier in the process to facilitate approval, construction and occupancy requirements.

Mr. Zeiher moved to approve the variance application for the Chick-Fil-A improvements. Mr. Delahunt seconded the motion. With no further discussion, the motion carried with a unanimous vote.

- Sagebrush Addition: The applicant proposed to use the existing structure within the Flood Plain and below the Base Flood Elevation and the Flood Protection Elevation. The existing structure will be a Coke Refresh Station, the floor is below the Base Flood Elevation, but it is not feasible to raise the floor elevation or equipment to be above the Flood Protection Elevation. This structure will not be used in the event of flooding, as the entire park would be closed during that event. Engineering Staff recommends approval of this variance as Staff and Cedar Point have been coordinating on this and future projects so that if required, they will submit for variances earlier in the process to facilitate approval, construction and occupancy requirements.

Mr. Delahunt moved to approve the variance application for the Sagebrush addition. Mr. Zeiher seconded the motion. With no further discussion, the motion carried with a unanimous vote.

- Lighthouse Point Housekeeping Restroom: The applicant proposed to use the structure within the Flood Plain and below the Flood Protection Elevation. The proposed structure will be housekeeping and restroom facility, the floor is above the Base Flood Elevation, but it is not feasible to raise the floor elevation or equipment to be above the Flood Protection Elevation. This structure will not be used in the event of flooding, as the entire park would be closed during that event. Engineering Staff recommends approval of this variance as Staff and Cedar Point have been coordinating on this and future projects so that if required, they will submit for variances earlier in the process to facilitate approval, construction and occupancy requirements.

Mr. Zeiher moved to approve the variance application for the Lighthouse Point Housekeeping Restroom. Mr. Delahunt seconded the motion. With no further discussion, the motion carried with a unanimous vote.

- Beach Bar Improvements: The applicant proposed to use the structure within the Flood Plain and below the Flood Protection Elevation. The proposed structure will be beach bar facility, the floor is above the Base Flood Elevation, but it is not feasible to raise the floor elevation or equipment to be above the Flood Protection Elevation. This structure will not be used in the event of flooding, as the entire park would be closed during that event. Engineering Staff recommends approval of this variance as Staff and Cedar Point have been coordinating on this and future projects so that if

required, they will submit for variances earlier in the process to facilitate approval, construction and occupancy requirements.

Mr. Delahunt moved to approve the variance application for the Beach Bar Improvements. Mr. Zeiher seconded the motion. With no further discussion, the motion carried with a unanimous vote.

Mr. Voltz presented that Tim Ali had submitted an application to place an accessory building in the front yard at 811 Cedar Point Road. The zoning code permits accessory buildings within the side and rear yards, however, the applicant proposed the accessory building on the north side of Cedar Point Road. The proposed structure is 720 square feet and 14' 3" in height. This structure is one of the largest enclosed structures that have been proposed on the north side of the road.

Staff recommended denial of the application due to the proposed size of the structure could block views for adjoining property owners and that the proposed enclosed structure is one of the largest that had been proposed. Staff would recommend approval of a 25' width structure with the following conditions:

1. The height of the building shall meet all current zoning regulations
2. The applicant provides the setback of the accessory building from the property line
3. The applicant shall apply for all building and zoning permits
4. Assure that all deed and HOA requirements are met
5. The applicant speaks to Cedar Point representatives about future road projects

Mr. Voltz added that there was an approval of a 28' accessory building on a smaller lot just a few months ago.

Mr. Keefe added that this would also need a flood plain permit.

Tim Ali, 811 Cedar Point Road stated that the reason for the request is that the traffic on the road has become impossible. He added that when Cedar Point widens the road, the traffic will get worse. He stated that during walks along the beach, he would speak to the neighbors who stated that they wished they had built their cabanas bigger. He stated that at 1325 Cedar Point Road there is a 28.5' wide and another 20'-25' of concrete on one side and the other is a walkway. The other property also has a shed that is about 12' wide. Mr. Ali proposed the 40' building to combine the cabana and storage in one building.

Mr. Zeiher asked if Mr. Ali had spoken with Cedar Point about their street plans. Mr. Ali stated that he had the plan and that he should have sufficient room to build what is proposed. Mr. Zeiher reminded him about the current rainfall and lake levels. Mr. Ali stated that his contractor could build what is needed to withstand the weather.

Mr. Delahunt asked if he knew his lot size. Mr. Ali stated that his lot is 75' wide. Mr. Delahunt was concerned that he is proposing a 40' wide building with an existing deck. Mr. Ali stated that he may have an 8' deck. Mr. Delahunt stated that it almost appeared that he was building another home on the north side of the street. The proposed structure would have a living area, restroom and kitchen. Mr. Ali stated that when you are at the beach, you must constantly fight with the traffic to get to the home to use the restroom or get something from the kitchen. Mr. Delahunt stated that he spoke with Cedar Point and they had said that the reason for the massive increase in traffic in the last few years is that people are using phone apps that tell them that this is the quicker way to go.

Mr. Zeiher agreed stating that the height and width seem too big for this lot size. Mr. Ali asked what would be appropriate. Mr. Zeiher stated that he is only looking at what was submitted and that he and staff should work on what might be appropriate for the lot size. Mr. Ali stated that he would like to run the utilities before the road project began. He stated that if he had to start over, this would not be possible.

Chairman Feick asked the staff how the front yard was determined. Does the applicant have 2 front yards? Ms. Sparks stated that these properties have very unique situations where the portions of the lots that face the right of way are the front yard, thus having 2 front yards. Chairman Feick stated that if the structure is built only 3' away from that traffic, it could be very dangerous. He added that aside from not having a bedroom, this structure is almost more like a home, having a bathroom, kitchen and living area. Ms. Sparks stated that because the application stated that the proposed structure was an accessory building, the Zoning Code states that the structure must be 3' from the property line. That was how the other applicants along Cedar Point Road had applied for their variances. This structure is much larger than the other applications and it would be difficult to just throw out a size or number without seeing a drawing. She recommended the board table the application until the applicant came back with a revised drawing.

Mr. Ali stated that since another application was approved down the street from him at 28.5', could he build at 30'? Chairman Feick stated that every situation is unique. The lots are all different widths and just because one was approved, it does not mean all others will be approved.

Mr. Delahunt stated that the main difference is the size of the lot versus the size of the building that you are putting on the lot. There would be site line issues, it would be obtrusive.

Chairman Feick asked the applicant if he would like the board to table the application until revised drawings are turned in to staff. Mr. Ali asked what width would be approved. Chairman Feick stated that he could not answer that without seeing drawings of how the structure would be laid out. He stated that before the board would review anything, staff would review and offer their recommendation.

Mr. Zeiher moved to table the request until the applicant provided another drawing. Mr. Delahunt seconded the motion. The motion carried with a unanimous vote.

Ms. Sparks presented that Eric Green had applied for a variance to place an accessory building within the side yard at 1607 W. Monroe Street. The property is zoned as residential business and is currently being used for a retail business. The purpose for the request is to add additional space for storage for overflow and to move some items in from the building that he rents across the street. Ms. Sparks stated that this is a unique lot where the front yard is defined by the shortest width, which would be on Clinton Street and the side yard would be on W. Monroe Street. The front of the building is on W. Monroe Street, so the accessory building is proposed to be located behind the front entrance but technically in the side yard area.

The first variance would be to place an accessory building within the side yard. The applicant had also applied for a variance of 10' to allow the proposed accessory structure to be 0' from the main structure. The applicant has proposed to construct an approximate 360 square foot building within the side yard. The applicant would like to utilize a storage container for excess merchandise. The storage container is proposed to be 7.17' from the side property line, the code requires 3' from the rear and side lot line.

Staff recommended approval of the variances for the proposed accessory structure with the following conditions:

1. Appropriate building permits shall be obtained.
2. Accessory structure shall be a minimum of 3' from any side or rear lot line.
3. All federal and state laws shall be observed.

Eric Green, 1607 W. Monroe Street stated that he turned the building from a video rental to a resale shop. He stated that he sells anything from furniture to vehicles. He stated that he needed more room to expand his business. He stated that he would like to place a shipping container on the property for additional storage.

Mr. Delahunt moved to approve the variance as submitted by staff. Mr. Zeiher seconded the motion. Mr. Feick asked staff what a shipping container would be considered. Ms. Sparks stated that the applicant would

have to speak with the building department regarding permits. She added that anything less than 200' would not require a building permit. This is proposed to be 320' so the applicant must obtain a building permit for the structure as a condition of approval. With no further discussion, the motion carried with a unanimous vote.

Ms. Sparks stated that she had not heard anything from the applicants of the tabled agenda item. She stated that she will reach out to see if they would like to proceed with the application.

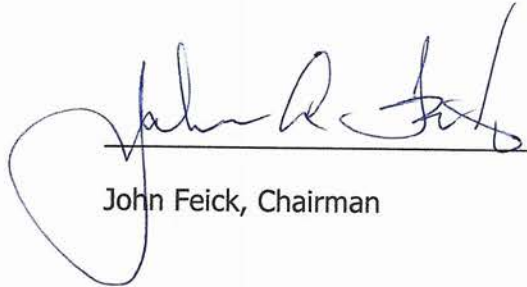
Ms. Sparks stated that the next meeting would be on May 17th at 4:30PM.

Mr. Delahunt moved to adjourn the meeting. Mr. Zeiher seconded the motion. The meeting was adjourned at 3:55PM.

APPROVED:



Debi Eversole, Clerk



John Feick, Chairman