

Board of Zoning Appeals
May 17, 2018
Minutes

The Chairman called the meeting to order at 4:30PM. The following members were present: Dr. William Semans, Mr. Dan Delahunt, Mr. Kevin Zeiher, Chairman John Feick and Mr. Walter Matthews. 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 April 19, 2018 meeting as written. Mr. Matthews 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.

Mr. Voltz presented that John Hancock, on behalf of Cedar Point LLC had submitted an application for side and rear yard variances for **2064 and 2066 First Street** for proposed new dorms adjacent to both Third and Fourth Street. Portions of the property are zoned both "CR" Commercial Recreation and "R1-40" Residential Single Family. Staff recently approved a lot combination of all the referenced parcels. The applicant had also applied for a zoning amendment for the remaining parcels and site plan approval. The applicant proposed to construct two 9,702 SF buildings for dorms to house Cedar Point employees. The lots are fronting Fourth Street and are addressed on First Street. Section 1138.09 requires a 40' side and rear yard setback when adjacent to residential parcels. The applicant proposed a **10'** rear yard setback adjacent to parcel # 57-04601.000 and a **20'** side yard setback adjacent to parcel # 57-00521.000. The lot adjacent to the requested side yard variance is vacant. There is a 10' alley adjacent to the proposed rear yard variance. Additional lots were added to development to create additional screening/ buffer area. Staff recognized that the existing lot is uniquely shaped and surrounded by existing dorms and residential property.

Staff recommended approval of the side and rear yard variance for 2066 & 2064 First Street with the following conditions:

1. The proposed site plan and zoning amendment applications are approved by Planning Commission.
2. All appropriate building and zoning permits shall be obtained.
3. All federal and state laws shall be observed.

John Hancock, 326 E. Market Street stated that the rezoning of the lots does not affect the project nor is it required for the project.

Bonita Lofties, 2105 Sherman Street asked what the height of the buildings would be and if the height would affect any future residential construction. Mr. Hancock stated that the buildings are proposed to be identical to the existing buildings, which are 3 stories and within regulations.

Sonia McCarty, 617 Cold Creek Drive asked the applicant if the project would only affect Fourth Street or will it go into Second Street. Chairman Feick stated that the existing dorms are backed up to Second Street and the proposed new dorms will be between Third and Fourth Streets.

Mr. Zeiher moved to approve both variances with the conditions recommended by staff. Mr. Matthews seconded the motion, which carried with a unanimous vote.

Mr. Voltz presented that Janotta & Herner, on behalf of Jan Bucholz had submitted an application for a front yard variance of 3.6' for the property located at **2232 Stahlwood Drive**. The property is currently zoned as R1-60 Single Family Residential and is surrounded by business and residential uses. The applicant proposed a 393 SF covered porch addition across the house. The applicant also proposed a 17' front yard setback from

the porch structure and a 13'6" setback from the stairs. Section 1145.16 (c) (d) states that any platform landing, steps, etc. shall not project more than 8' into the required front yard. City's past policy is to indicate the setback from the existing structure. As such the required setback would be 17.1' and the applicant proposed a 13' 6" setback. Planning Staff recognizes that the existing home is currently legally non-conforming and does not meet the front yard setback and there currently is a front porch on the structure.

Staff recommended approval with the following conditions:

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

Andy Miller representing Janotta & Herner, 309 Monroe Street stated that the proposed porch will be a covered porch, 8' wide that wrap around to meet both doors.

Dr. Semans stated that the project looked like it was already stated. Mr. Miller stated that the home was remodeled but they waited on the porch. Chairman Feick reminded the applicant that some of the projects that were already in progress would need permits. He added that this particular home sits ahead of others now and he doesn't want it to project out anymore.

Mr. Voltz stated that it was the steps that required the variance and how much they will project from the front porch. It was his understanding that there was once a porch that had been removed. Ms. Byington stated that the proposed porch can extend into a required setback 8' and that the setback is measured from the front of the house. The porch is within the requirements. It would only be the steps that will encroach into the required setback.

Dr. Semans moved to approve the variance with the staff's conditions. Mr. Delahunt seconded the motion, which carried with a unanimous vote.

Mr. Voltz presented that Anythony J. Muscioni Jr. had applied for variances to place a billboard on two parcels on Cleveland Road (**57-00242.00 & 57-00421.00**). The property is currently zoned as RB Roadside Business and is currently surrounded by legally non-conforming residential and commercial properties. The applicant proposed a 5' by 8' billboard in the center of two vacant Roadside Business parcels on Cleveland Rd. Billboards are currently only permitted in manufacturing districts per 1143.09 (b) (1). The applicant is also proposing a 150' variance to the required setback for the proposed billboard. Section 1143.09(b)(9) requires a minimum setback of 200' from a residence.

Staff recommended denial of the requested variances due to the fact that these parcels are zoned RB and this could create a precedent for billboards to be located in other RB parcels, as well the significant variance requested for the setback requirement.

Tony Muscioni, owner of Air 1 Airboats stated that he received permission from the owner of the property to place his sign on their vacant property. He stated that they would also like to advertise on their own property. He is a seasonal business and would do whatever is required to come into compliance to place their billboard on this property. He stated that he brings a lot of businesses into the town and he did not see any problem with what he intended to do.

Mr. Delahunt asked if the owners of the property had the zoning changed and if staff had any suggestions that would help Mr. Muscioni out. Ms. Byington stated that the only possible solution would be a temporary sign for the owner's business. This would not be a solution for Mr. Muscioni because off-premise signs are not permitted. She added that staff could not recommend approval without setting a precedent for future business owners.

Mr. Delahunt asked if there were a way to designate the request as a temporary sign. Ms. Byington stated that the variance would have to be for the definition of a temporary sign. The time limit is no more than 30 calendar days. Mr. Delahunt stated that although he would like to go against the recommendation, he understood that empty lots could start filling up all over the city with off-premise signage and billboards. Mr. Delahunt moved to accept staff's recommendation of denial of the variance application. Dr. Semans seconded the motion to deny, which carried with a unanimous vote. Dr. Semans added that he would like the board and the staff to work toward allowing some means of this type of advertising without setting a precedent. Mr. Delahunt agreed that it was with regret that the application had to be denied.

Mr. Voltz presented that Elisabeth Sowecke had applied for a variance to the maximum permitted side yard fence height requirement to permit the construction of a 6 ft high side yard fence at the property located at **828 Tyler Street**. The property is currently zoned R2F Two-Family Residential and is currently a single-family residence. The applicant proposed to replace a current chain link fence with a 6' fence along the western side yard. The unique size of the lot and placement of the house on the lot leave very little rear yard, and construction of a 6' fence would not affect the usability of adjacent properties.

Staff recommended approval of the variance request.

Elisabeth Sowecke, homeowner at 828 Tyler Street stated that when she purchased the home, she was not aware of the current zoning regulation that restricts 6' high fencing in the side yard. She stated that she had a very active son that loved to climb and she feared that he will get over the 4' fence. The fence will add protection and increase the beauty of the property.

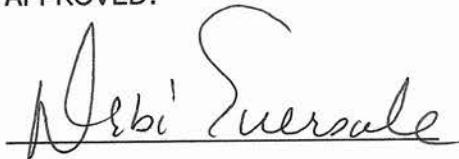
Dr. Semans moved to approve the variance. Mr. Zeiher seconded the motion, which carried with a unanimous vote.

Mr. Voltz stated that the tabled item for **811 Cedar Point Road** should return at the June meeting. He added that he had not heard anything from the applicant at **630 Harbourside Drive** that was previously tabled. He stated that he would reach out to the applicant to see what their intentions were.

Mr. Voltz stated that the next meeting would be on June 21st at 4:30PM.

Mr. Zeiher moved to adjourn the meeting. Mr. Delahunt seconded the motion. The meeting was adjourned at 5:25PM.

APPROVED:



Debi Eversole, Clerk



John Feick, Chairman