

Board of Zoning Appeals
March 21st, 2019
Minutes

The Chairman called the meeting to order at 4:30PM. The following members were present: Dr. William Semans, Mr. Kevin Zeiher, Mr. Feick, Mr. Delahunt, and Mr. Walter Matthews. Ms. Angie Byington, Tom Horsman, and Greg Voltz represented the Planning Department; Mr. Trevor Hayberger represented the Law Department.

Mr. Zeiher moved to approve the minutes from the December 20th, 2018 meeting as written. Mr. Matthews seconded the motion. The motion carried with a unanimous vote.

Mr. Feick swore in those giving testimony.

Mr. Horsman stated the applicant Donley's, on behalf of the City of Sandusky, has submitted an application for the following variances: a 1.85' from the 2' flood protection elevation for the pavilion to be located at the Jackson Street Pier and a 0.85' from the 2' flood protection elevation for the ticket house to be located at the Jackson Street Pier. Staff is recommending approval for both variances.

Jeff Keefe, City of Sandusky, stated the flood protection elevation is above the base flood elevation however, any structure that proposed below the city's requirements is required to receive a variance per the City of Sandusky Zoning Code.

Mr. Horsman reiterated that this is above FEMA's elevation, however it is a variance to the City of Sandusky's code requirements.

Dan Gess, Donley's, stated that they are representing the project and agree with what planning has said so far and is here to answer any questions.

Tim Schwanger, 362 Sheffield Way, ask if the structure is 50' wide by 60' long. This is the first meeting in which they can see where the proposed building really is.

Mr. Feick stated that the BZA is to discuss the flood plain elevation not the size of the structure, his comments needs to pertain the variance request.

Mr. Schwanger stated that this is in a flood zone they should not build this.

Mr. Feick discussed the variance request pertaining to the elevation of the building.

Mr. Schwanger stated that staff has indicated that the pier would be closed during events and he would like this to be addressed.

Tom Lamarca, 206 48th Street, questioned the water run off for the proposed building, he is concerned for the Beckley Building will be flooded, and he stated he would prefer this to be on the Keller site.

Mr. Feick stated that a storm water runoff plan was required for this project and it will be reviewed by staff and the engineering department.

Mr. Lamarca stated that Cedar Point may be quiet on this issue, however the building sits lower than the Jackson Street Pier so there may be flooding on this location.

Mr. Feick stated that there is a procedure in place to review storm water plans for the site, this body is not part of this review.

Mr. Lamarca stated that he believes this building should be built up to assure not flooding.

Mrs. Johnson 1139 Fifth Street, stated that she is against this. The request is to be built below the flood elevation, if this goes through it will need reinforcement to protect the surrounding buildings. One storm will beat this building up very bad, the report also mentions that if the variance is not granted it will cost a lot of money to alter the plans.

Mr. Readar, Chesapeake Lofts, stated that last spring there was flooding at the jet express dock and the parking lot for the Boeckling Building from north winds blowing in the area. We are supposed to have high

levels of water this year, now the City wants to place a building in the area that flooded last year. We do not need a building on the pier, does not make sense to place a building in the floodplain area.

Mr. Feick stated that they are debating on what the height shall be, not the location.

Mr. Readar stated that the DNR building will be flooded.

Cathrine Carter, 5309 Columbus Avenue, stated that there were food trucks on the pier last summer that got water very close to them, that will be all within this building. This area will flood.

Charles Wesley Poole stated that per Section 1157.05 staff is required to indicate the findings of fact. He would like the board to cover each of these individually. The board's consideration is of the height of the building, however he would like the board to reconsider individuals not being able to discuss other items that are indicated in the staff report.

Mike Zuilhof, 243 Market Street, stated that this is in the floodplain therefore can be expected to flood.

Mr. Feick stated that both buildings are proposed to be above the 100 year floodplain, however the city has an additional requirement that the buildings be located 2' above this requirement and these buildings do not meet the city requirement.

Mr. Zuilhof ask if the building will be higher than the current grade and how much.

Mr. Zeiher ask if this has gone before the Planning Commission.

Ms. Byington stated that this conceptual plan which showed the building and the parking was approved by Planning Commission.

Mr. Zuilhof stated that at the time the building was conceptual and he did not know the details, there was discussion that it may be a see through building and we did not have the elevation. He is on record opposed to the building

Mr. Gess stated the finished floor of the building is 1ft height above the concrete grade.

Mr. Zuilhof stated that he voted for the plan, however he was clear that he did not think the building was a good idea. The Board is considering many perspectives and there will be a lot of influence on this.

Mr. Feick stated that the City is building the pavilion, if the variance is not granted the City will still build the building however it would just be higher out of the ground.

Mr. Zuilhof stated that he would question the idea that it may just be built higher, he also wanted to clarify that Planning Commission only approved a conceptual plan; and ask if Planning Commission will eventually see more details for this plan.

Ms. Byington stated that after final design is done they will be bringing it to the Commission for review as well as Shoreline Drive.

Mr. Feick stated that this Board is approving the height of the building, whether it will be built is not a concern of this Board.

Trudy Thompson, 101 West Water Street, stated that her only concern is that she lives across the street from this building, she worries that her basement will be flooded.

Mr. Feick stated that he cannot tell anyone if they will receive water in the basement, however a storm water plan was completed for the project and those types of issues are considered.

Mrs. Thompson ask if they have water will be City take care of these issues.

Mr. Feick stated that this body is not looking at these type of issues. This Board considers the findings of fact criteria to review but would also like to have a representative of Donley's or staff to review these findings of fact.

Ms. Byington reviewed the findings of fact with the Board.

A. Whether the variance is substantial;

Staff believes the variance sought in this case is not substantial because it meets FEMA regulations and is 1' over existing grade.

B. Whether the essential character of the neighborhood would be substantially altered or whether adjoining property would suffer a substantial detriment as a result of the variance;

The variance would not substantially alter the neighborhood, or the adjoining property suffer as there has been a plan regarding the storm water that has been submitted. There have been a lot of discussion regarding the Boeckling Building and how they can improve their current situation and assure that it does not get any worse than it is now.

C. Whether the variance would adversely affect the delivery of government services (i.e. water, sewer, garbage, fire, police or other);

The proposed use variance would not affect the delivery of government services.

D. Whether the property owner purchased the property with the knowledge of the zoning restriction;

The City has had the pier before the zoning was in place.

E. Whether the property owner's predicament can be resolved through some method other than a variance;

Staff reviewed and determined it could be resolved by building the pavilion up higher or relocating the building on the pier; however both would have negative effect on view sheds to the water. It has been located to get the best view shed of the water as possible.

F. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by the granting of the variance;

The spirit and intent of the zoning code are being met as the building is meeting FEMA's requirements, however the variance is for the City's additional requirements and we believe it is necessary to ask for the variance to assure that the view sheds are preserved.

G. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without a variance; and

Regardless of the variance the property can still yield a reasonable return without a variance, the building will still be built it would just be higher.

H. Whether the granting of the variance will be contrary to the general purpose, intent and objective of the Zoning Code or other adopted plans of the City.

The granting of the variance will not be contrary to the general purpose, intent and objective of the zoning code, nor the comprehensive plan.

Ms. Byington stated that the next section A-E are generally concentrated for use variances, understanding this is not a use variance staff did not concentrate on this information specifically.

Mr. Delahunt ask how 1.85' become the number for the variance.

Mr. Gess stated that this is the number between the finished floor elevation versus the 2' buffer elevation which is the base flood elevation plus 2'.

Mr. Delahunt ask if the whole reason is to reduce the elevation is for sight lines.

Mr. Gess stated that the building is located in the same location in which the plans indicated where when they received them. The variance goes beyond raising the building it is based on the connection of the building and the proposed programing to activate the space. It could require raising the site as well as the building. Much of the elevation has been set once Donley's have taken over the project. They have raised the building as much as they could without sloping the site, while keeping ADA regulations, and keeping within the storm water plans, and the intent of the programing of the site. It is a balance as they do not want to alter the site too much as well.

Mr. Delahunt ask if he could speak in regards to the FEMA requirements that they are currently meeting.

Mr. Gess stated that there are broad spectrum of FEMA requirements that they are meeting and are currently above 100 year flood. They can also use FEMA products as recommended that are water proof and can be careful in the structural design. They have also flipped support faces which were originally on the north end but through development we have placed this on the south further from the flood plain. Practical steps have been taken to project the structure.

Mr. Feick ask if they can add a step and a ramp to get into the door to get the required elevation, this would allow you not to have to raise the complete site. A ramp would make a lot more sense economically.

Mr. Gess stated that the proposed doors are roll up doors and the intent would be to open those and walk out into adjacent pavement, if the building is raised up there would have to be reconsideration of the use of the building.

Mr. Gess discussed the proposed elevation numbers with this building.

Mr. Feick stated that the pavilion and the ticket booth are two separate items, the pavilion will be used a lot more. Mr. Feick stated that if the City allows a floodplain variance to build on their property it will be hard to deny another applicant requesting a floodplain variance through this body. Mr. Feick stated that he believes that the pavilion could be raised up and meet the requirements.

Mr. Delahunt ask staff if this has come before the Planning Commission, it does not appear that this was approved through that body, why is the Board of Zoning Appeals approving this at this time.

Ms. Byington stated that it was a preliminary site plan that Planning Commission approved, they did not approve the exact setbacks and dimensions. It is a design build project.

Mr. Delahunt stated that the Board will approve this variance for this specific item, however all of the other numbers have not been completed.

Ms. Byington stated that this is true, as this needs to be determined to find out what the setbacks will need to be. This is a design build project.

Mr. Delahunt stated that the reason of the variance is to keep the height of the building down. It will be difficult for the BZA to approve variance and say no to other variance requirements.

Ms. Byington stated that they have approved a floodplain variance before residents and commercial buildings, this is a unique location and use. They have located the building as far east and south as they can to maintain the views within the area, if they were to raise the grade they could cause more water run off at a faster rate. The public expressed that they wanted the pavilion as an open air structure so that is why they have the proposed design, if they raise the building it would not allow an open air building. Financial hardship cannot be considered, however it is important to note that this is public money and if many changes are needed to assure that there is no flooding that is something that city will have to take on.

Mr. Hayberger stated that we are discussing an area variance not a use variance the standards are much higher for a use variance.

Mr. Delahunt made a motion to approve the variance for the ticket office; Mr. Zeiher seconded the motion. With a unanimous vote the motion was approved.

Mr. Gess stated that they are needing to determine this to move forward with the project, many of the submittals are dependent on the location of this building. An unfavorable variance would result in a different location of the building.

Mr. Feick stated that they could raise the building and place a ramp around the building.

Mr. Gess stated that this is a decision the city will need to make.

Ms. Byington stated that if the Board would like the consultant to review these options however she would request the Board to table for two weeks instead of thirty days.

Mr. Feick suggested the Board visit the site with the consultant and staff to review the options.

Dr. Semans moved to table the floodplain variance for the pavilion, in the meantime they would like a site visit with the board; Mr. Zeiher seconded the motion.

Mr. Zeiher stated that appreciates all of the input but believes that it is necessary that the Board complete a site visit to see the proposed locations and review the issues.

With no further discussion the motion was approved unanimously.

Mr. Horsman stated that the variance will be for the parcel addressed in the report. The building is actually located on 1214 Campbell Street.

Mr. Horsman stated that Skip Frost, on behalf of Richard Twardzik has submitted an application for the following variances: a use variance to allow for a commercial automotive repair use at the property located on parcel 57-04956.000. The applicant proposes to expand the business at 1216 Campbell Street, combine the two lots, and connect the structures. The property is zoned as R2F Two Family Residential. The surrounding uses are primarily residential which include Campbell School site, the properties to the north are zoned as RRB. The property at 1216 Campbell is use as commercial automotive repair. The property did receive a substation of a nonconforming use in 2016.

Mr. Horseman stated that staff does not recommend approval of the variance. A use variance must satisfy all of the requirements in Section 1111.06(c)(2) of the Planning and Zoning Code. Staff does not believe all requirements are met, particularly part B- that the variances will not adversely affect the rights of the adjacent property owners or residents. Staff recommends possible relocation of the business to a location that is property zoned and can accommodate a growing business.

Donald Frost, 519 Bardhsar Road, current owner of the business. He would like to point out that this a motorcycle repair shop not an automotive repair shop. The building that he currently occupies was built in 1934 as automotive repair facility, the building adjacent to it was purchased in 1977, it is a storage facility not a garage. The city approved it and required a commercial grease trap not made for residential use. Mr. Twardzik has used it for storage, the intent is to will move those cars out and use that building for motorcycle business. They will combine the lots and connect the building to make it conducive to the neighborhood. The building allow bikes from being parked out front. He has followed all the guidelines that City has required and tries his best to keep up the property. More residents commend him on how he keeps the area. Mr. Iceman adjacent neighborhood had stated that this is the best thing that happened to the neighborhood. Mr. Frost stated that he will hire two additional positions to the tax dollars if this goes through.

Mr. Frost provided comments to the Board regarding each of staff's finding of fact, this information was provided to staff.

Mr. Horsman stated that the Planning Commission approved this use as a substitution of a non-conforming use for the repair shop. Mr. Horseman stated that staff utilized automotive repair because the code does speak to motorcycle repair shop.

Mr. Feick ask to confirm the use of the surrounding property, if it is storage he can store motorcycles within that building. Once he combines that building, he would need it to conform to automotive repair zoning and building requirements.

Mr. Frost stated that when he connects the building, he will separate it by a garage door to avoid heating both buildings.

Marcy Platt, 1217 Columbus Avenue, described to the Board where she lives she provided pictures of business and where the motorcycles currently park. Ms. Platt gave the history of the neighborhood and the current site in question, describing where the commercial uses were located within the neighborhood. Mrs. Platt described the process in which the applicant was approved by Planning Commission, the business hours and operations of FKN Performance, and the other requests the applicant made Planning Commission. Mrs. Platt stated that the repairs of motorcycles versus cars is more determinate to the neighborhood. Ms. Platt stated that this is not fair, this is a residential area and this business does not belong within this area. Ms. Platt stated that she does not believe that garage will be utilized for storage, it will be used for repairs.

Catherine Carter, 539 Columbus Avenue stated that there is a large difference between automotive repair and motorcycle repair. Ms. Carter stated there is not a guarantee that as the business gets larger that he will not utilize the garage for repairs and there would be nothing you could do at this time.

Mr. Frost stated that there was never a limit to the number of motorcycles that can sit out there, he was required to provide at least to parking spots. He has never had a noise complaint filed against him, he has a sign asking to keep pipe noise down for neighbors. That area will be used for storage.

Mr. Delahunt ask who owns the two parcels.

Mr. Frost stated that Mr. Twardsik owns the parcel.

Mr. Delahunt stated understanding the entire situation, if the intent is to use this as storage the applicant may want to place a door on the side and then just move the bikes to the other building.

Mr. Frost state that he would have to knock a hole in both buildings.

Mr. Feick stated that as soon as you connect these buildings, you can do repairs at that time. Currently you can only store within the building.

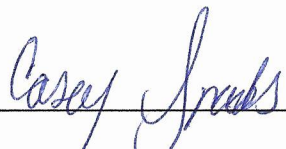
Mr. Frost stated that he is trying to clean up the neighborhood.

Mr. Zeiher made a motion to deny the requested variance; Mr. Matthews seconded the motion. With no further discussion the motion is unanimously denied.

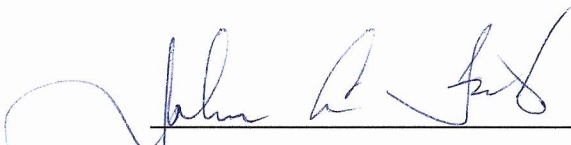
Mr. Matthews moved to adjourn the meeting; Mr. Zeiher seconded the motion.

The meeting was adjourned at 6:30pm.

APPROVED:



Casey Sparks, Clerk



John Feick, Chairman