

**Board of Zoning Appeals
November 21st, 2019
Minutes**

The Chairman called the meeting to order at 4:30PM. The following members were present: Mr. Feick, Dr. Semans, and Mr. Delahunt. Thomas Horsman and Angela Byington represented the Planning Department. Trevor Hayberger represented the Law Department.

Mr. Delahunt motioned to approve meeting minutes from September 19th, 2019. Dr. Semans seconded the motion. The motion carried with a unanimous vote.

Mr. Feick stated that this is an adjudication hearing and those that wish to give testimony need to be sworn in. He then swore in everyone that wished to do so.

1st application on agenda: John Neigel of the Fraternal Order of the Eagles, as an authorized agent of Sandusky Congregation of Jehovah Witnesses, Inc, has submitted an application to operate the property at 608 King Street as a fraternal organization hall in a R1-40 Single-Family residential zoning district. The appellant is seeking a variance for relief from the strict application of the following section of the Sandusky Codified Ordinances:

-Section 1129.03, which does not allow for fraternal organization halls as a primary use in a R1-40 zoning district.

Mr. Horsman described where the address is located and explained that across the street from this property is a general manufacturing district and a commercial service district and just to the south is a parking zoning district. The property was constructed in the 1970's and has been used by the Jehovah's Witnesses. Staff did believe that due to the unique situation of the structure, and that the proposed use will not be significantly dissimilar from the use that it has been being used as, that staff believe that the strict application of zoning ordinance in this case would create an unnecessary hardship, so staff is recommending approval. If approved the applicant would need to provide a site plan since it is a change of use, for staff approval. The parking requirements are met by what is currently available, but staff would still need to approve that.

John Neigel, President of the Eagles stated that they are looking for relief from the variance because they have sold their location on Perkins Avenue. They have been a part of the Sandusky community since 1903 and wish to continue on being so. He feels the building fits their needs well.

With no further discussion, Mr. Delahunt moved to approve the variance. Dr. Semans seconded the motion. All members were in favor and the variance was approved.

2nd application on agenda: Parcel 57-00193.002 located on First Street. John Hoty, on behalf of Bay Boat Storage, Ltd., has submitted an application to construct a 60,000 square foot warehouse on an 85,000 square foot parcel in a GM – General Manufacturing zoning district. The appellant is seeking a variance for relief from the strict application of the following section of the Sandusky Codified Ordinances:

-Section 1139.07 (a), which states that no more than 50 percent of a lot area can be covered with buildings and the owner is proposing 70 percent.

Mr. Horsman showed the site plan to the commission and stated that the applicant is proposing a lot split, which means that the building would take up more than 50 percent of the lot area. All of the other setbacks would still be met. There was a similar variance approved by this board in 2011 that did grant a variance for the maximum lot coverage of the existing storage building to the west, which takes up 66.2% of that parcel. The building did get site plan approval from the Planning Commission, so this is not a variance for the actual construction of the building, but will allow the lots to be split so that the building can take up the coverage on the new proposed lot. The building is being constructed and as the lot currently stands it does meet the maximum coverage requirement. Looking at the requirements in the zoning code, staff do not believe that the strict application of the zoning ordinance would create a practical difficulty in this case and do not support the variance request.

Mr. John Hoty at 3127 Michael Circle in Sandusky, stated that the need for the variance is similar to why they did it to the building that was built in 2010. He stated that they are looking to build in the flood zone. The original building that the marina owns is the flood zone and there is nothing they can do to get it out. The mortgage holder says that because that building is in the flood zone, they charge a rate that is not market, and if he includes anything else on that same property, he will have to pay that same rate. If he builds on a separate parcel, he gets the advantage of paying market rates. The whole 19 acres, that is 22% consolidation buildings, and the code is 50% in the GM. For this parcel, which is a separate mortgage parcel, we would be approaching 70%. It is a hardship for the company financially because where they want to build is in the flood zone. The zoning code does not take into account that they are building in the flood zone.

Mr. Delahunt asked if the setback on the new building the same as the setback as the first building to the west.

Mr. Hoty stated that the new building will actually be a little bit further away from the street due to the bike path going in front and there is also going to be some retainage going in the front of the building. The building is going to be built either way, but they are asking for the variance to be able to negotiate with the bank due to the flood zone. He stated that he would have to pay the bank to release the property from the mortgage. The new building, because it is going to be built at a higher elevation, won't have that problem. That is what happened with the Venetian. If the variance is granted nothing changes for the city, the mortgage parcel will just look differently to comply with the 50 percent. When the property was bought, every square inch was built on. The buildings were demolished when they should have asked for a variance before it was demolished and then they could have built what they wanted. However, the buildings were in the flood zone and nobody would insure them so that is why they came down.

Mr. Feick asked if the plan is to build a second building behind this one.

Mr. Hoty stated that is possible, but that would not change this application because they would need to get a variance again or consolidate. The problem again would be the flood zone.

Mr. Delahunt asked if what Mr. Feick was asking about is a part of this same parcel.

Mr. Hoty stated it is not.

Mr. Delahunt stated that he is happy to see that the building being proposed is set back a bit.

Dr. Semans asked if he could build the building without the lot split.

Mr. Hoty stated that he could but that the bank wants more than 100 percent of fair market value for a payoff. This was not an issue in 1988, but they redid the flood maps in 2005.

Mr. Feick stated that to him it would be real simple to make the one lot just big enough to meet the requirements.

Mr. Hoty stated that the problem is that nobody is going to give him a lot split without getting any benefit from it. The cost is five digits.

Dr. Vimal Kumar of 428 Wayne Street in Sandusky, speaking on behalf of Universal Clay Products, which is south of this proposed project. Also for Lyman Harbor which is east of this project. Universal Clay Product has an easement that is going through this parcel to the lake that is of concern. The three surrounding sites have issues with this site. In 2010 when the one building was built and the soil was enlarged on the one side Mr. Byington had come in front of this organization and had a discussion with the amount of topography change. The other issue was how it devalued his property. Putting another building to the level that they are talking about, creates a big block, not allowing a view. This will affect his property values negatively and surrounding property values. This is not a variance request, but a deviation. We are talking about increasing the footprint coverage by 40 percent. To have another building this closely is going to negatively affect his business. The soil that has been put further north this week, has gone more than two and a half stories high, and is displacing the water characteristics of where the flood zones would be. So there is an undue burden being placed on neighboring properties by the changing of topography to that degree. If we are to say that now we can build on 70 percent of properties, then that should be the rule, and the ordinance should be changed. Sandusky would not be Sandusky if we allowed that to happen.

Mr. Feick asked Mr. Kumar if the easement he has through the property is through the building footprint.

Dr. Kumar stated that this is the first he is seeing of this as he just received the letter from the city this week and the soil started moving this week. He said he is still trying to gather information and has requested

information and the response from the city was that the city does not know anything yet. He said he then received the letter.

Mr. Feick stated that he is trying to understand Mr. Kumar's objections and that one is an easement, but we do not know where that is.

Dr. Kumar stated that the easement is going between the proposed site and the building that is existing. The other objection is the property that is being raised is devaluing his property on two sides.

Mr. Feick stated that Mr. Hoty has a right to build the building, the variance he is asking for is a square foot variance of the property that he wants. If he says he wants a lot split and says that he will add 33,000 square feet to the property, he does not need the variance, but there is an issue with the mortgage company.

Dr. Kumar stated that he objects to the variance.

Mr. Delahunt asked Dr. Kumar that if we asked Mr. Hoty that if he has to have more square footage in the front lot, and he is thinking that maybe his future building prospects might be dimmed a little bit on the property immediately behind, that would be a better solution.

Dr. Kumar stated that the density of everything makes a difference, whether it is a building or a pile of dirt.

Mr. Hoty stated the mound of dirt is temporary and will get no higher than what it is currently.

Mr. Feick asked if they could sell the parking.

Ms. Byington stated that sometimes properties will transfer before the city knows. If there was not a change or use, the city may not be aware, and therefore may not need to require more parking. Staff would hope that they would transfer the easement for the parking if they sell the property, but there is not a real good means of enforcement to ensure that happens prior to sale of a property.

Mr. Delahunt asked Ms. Byington if staff would be checking to see if the easement is within the proposed parcel.

Ms. Byington stated that this site plan came through Planning Commission in 2016, and they are just now building. In that process Planning Commission approved using the existing parking because it was all one entity.

Mr. Delahunt asked if he is trying to separate the lot so that he can building something else behind this property.

Mr. Hoty stated that it is possible.

Mr. Feick stated that as far as the use goes, commission is not here to look at that. He stated that his only worry was the amount of land that is being attributed to it. If looking at the whole property, and seeing that only 20 percent of it was being used for a marina, that would feel better to him.

Mr. Hoty stated that either way they are moving forward with the project, he is just going to be burning a lot of money to do it.

Mr. Feick stated that technically the applicant is not meeting the letter of the code, but to him, the feeling of the code is that if you look at the entire parcel, there is more than adequate open space to meet the intent of what the code is.

Mr. Delahunt stated that as much as he understands Dr. Kumar's dilemma, he stated he can't take away from the fact that the commission's only prevue is to look at what the commission is looking at tonight, and the applicant is well within their right to build the building and building a building behind it if they choose to.

Dr. Kumar asked the commission that if the applicant is well within their right, then what is the variance that is being looked for and why is the meeting taking place. When there was a building there in the past, that was a different time. In Sandusky today, we are redefining what we are. He stated that he is going to get the details of what is being proposed, he is going to get a surveyor on board, and he is going to get whomever else he needs to get on board to explain his objections to the commission. He stated he does not have the privy of knowing the ordinances and did not have much notice to be able to look into this.

Mr. Feick asked Mr. Hoty what the schedule is for the building going up.

Mr. Hoty stated that either way the building is going up. The reason Mr. Kumar had such short notice is because they do not need to give any notice to build where they are and they only reason he was given a notice by the city was for the variance.

Mr. Delahunt made a motion to table this application for 30 days to give Dr. Kumar an opportunity to do what he is interested in doing. Mr. Hoty can continue on with his project as he has already started.
Mr. Hayberger asked if he could suggest that the commission postpone the application instead of tabling it, as there is a difference. If there is a specific time limit we should call it a postponement.
Mr. Feick asked if we could just postpone until the next meeting.
Mr. Delahunt stated that he changes his motion to postpone until the next meeting.
Dr. Semans seconded the motion.
All members were in favor of the motion.

Clerk for the Planning Department Kristen Barone, then stated that the commission had members with terms expiring 12/31/19, and that was Mr. Zeiher, Mr. Delahunt, and Dr. Semans. Ms. Barone then asked if they would like to be reappointed.

Mr. Zeiher was not present, but Mr. Delahunt and Dr. Semans both stated that they would like to be reappointed.

Mr. Horsman stated that there are potentially two other applications besides this postponement that will be on the agenda for next month.

Ms. Barone asked the members if they were okay with the clerk emailing the agenda and having a printed copy available at the meeting, instead of mailing out a copy.


All members were fine with the clerk doing so.

Mr. Feick motioned to adjourn the meeting.

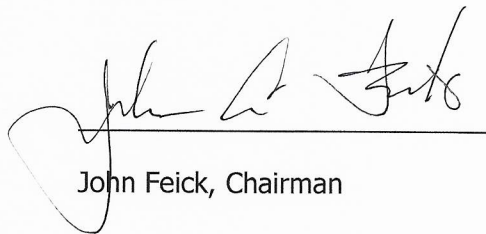
Dr. Semans seconded the motion.

All in favor to adjourn. The meeting was adjourned at 5:42pm.

APPROVED:



Kristen Barone, Clerk



John Feick, Chairman