

**Board of Zoning Appeals
March 21, 2024
Meeting Minutes**

Meeting called to order:

Chair Feick called the meeting to order at 4:30 pm. The following voting members were present: Mr. Delahunt, Chair Feick, Mr. Peugeot, Vice Chair Semans, and Commission Liaison Kate Vargo. Alec Ochs represented the Community Development Department, Stewart Hastings represented the Law Department, and clerk Cathy Myers was present, as well. Board member, Blake Harris, notified Staff in advance that he was unable to attend the meeting.

Review of Minutes from January 18, 2024:

Chair Feick called for a motion on the minutes from the February 28th meeting. Mr. Delahunt moved to approve the minutes as presented. Mr. Peugeot seconded the motion. All voting members were in favor of the motion and the minutes were approved unanimously, as presented.

Chair Feick swore in all parties that were present to speak about adjudication agenda item.

Adjudication Hearing:

- 1. 426 Huron Avenue- A use variance to Zoning Code Section 1129.03 to allow the retail stores and service use of the LB- Local Business Zoning District as regulated by zoning code section 1133.04 (a)(2) in an R2F-Two Family Zoning District.**

Chair Feick introduced the application and asked for Staff report. Mr. Ochs stated the applicant sought a use variance to allow the retail stores and services of the LB – Local Business Zoning District. As part of the code, any retail store or service must also be conducted wholly within an enclosed building. The Zoning Code explicitly outlined the uses that were allowed, and those uses were typically catered toward residents in the nearby neighborhoods, such as beauty shops, sale of art, hardware store, florists, etc. The storefront had previously been a legal non-conforming use. The space has been voluntarily vacant for more than a one-year period and thus lost its legal non-conforming status. The space was not usable at this time, unless the existing residential units were expanded because the number of units exceeded the zoning code standards. Staff believed this was a legal non-conforming number of residential units and had no concerns. There were approximately five off street parking spaces for the entire building. Supplemental parking spaces can be found directly across the street. The building consisted of one empty storefront, and three long term residential units. Staff determined that the site had historically functioned without additional parking since prior to 2008 (earliest found evidence of a business use at this location). Staff reached out to Chief Oliver to determine if there were previous parking complaints at this site. Chief Oliver had stated there have been no issues since he's been on the police force. The most strenuous parking standard for the requested use required 13 off-street parking spaces. The least strenuous parking standard for the requested use required 3 off-street parking spaces. Staff estimated that the existing parking areas would suffice for the applicant's needs and have determined that no additional off-street parking be required. The closest Business Zoning

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District to this site was zoned LB – Local Business. Staff used this proximity and the fact that was the most restrictive business district to determine appropriate uses for this variance request. Staff determined this was an appropriate use variance for this site. Planning Staff supported the requested variance at 426 Huron Ave. parcel (56-00255.000) and suggested the following conditions upon approval that all applicable permits were obtained through the Building Department, Engineering Department, Division of Planning, and any other applicable agency.

Chair Feick asked if there was anyone present to speak about the request. Mr. Jonathan Sherer, the applicant and chief operating officer of the LLC that owned the building, came forward to speak about the request. The LLC bought the building with the understanding that could be renovated and rented out. There were no other people present to speak on the request.

Chair Feick called for a motion. Mr. Delahunt made motion to approve the variance with staff conditions. The motion was seconded by Vice Chair Semans. A vote was called and the motion to approve the application passed unanimously.

Chair Feick stated the Board would discuss the fourth item on the agenda next.

2. 1403 McDonough Street- An area variance to Zoning Code Section 1145.15 (a) to allow the construction of an accessory structure in the “side yard” and to allow an accessory structure to exceed the 30% maximum cover area in a R1-40- Single Family Zoning District.

Chair Feick introduced the application and asked for Staff report. Mr. Ochs stated The zoning code required that all accessory structures were permitted only in the rear yard. The applicant was in the pre-process of adding a 20’ x 91’ accessory structure partially in the side yard of the existing main structure. The proposed structure expected to encroach approximately 55’ into the side yard and would have a 36’ setback from the front property line. Accessory structures placed in the rear yard must also not exceed 30% of the rear yard area. The rear yard allowance is approximately 1,050 sq. ft. for an accessory structure. The proposed structure was 1,820 sq. ft. The applicant sought a relief of 770 sq. ft. The variances requested were to allow an accessory structure in the “side yard, “and to allow an accessory structure that exceeded the 30% rear yard area. The site in the past operated as a church use, which was a non-conforming use in this zoning district. Staff asked the applicant to supply documentation of the most recent use of the structure to determine the non-conforming status. A letter explaining the continuation of a church use at 1412 E. Farwell St. was given to Staff. Staff also asked the applicant to update their preliminary site plan to provide clearer, more legible information on March 5th, 2024. An updated site plan was delivered to Staff on March 8th, 2024. Engineering Staff were concerned about water runoff from the accessory structure and discussed with Planning Staff. Planning Staff were not opposed to the variance requested at 1403 McDonough St. (parcel 58-68012.000) and suggested the following conditions upon approval that all applicable permits must be obtained through the Building Department,

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Engineering Department, Division of Planning, and any other applicable agency prior to any construction, and that the water runoff onto the neighboring properties was avoided.

Chair Feick asked if there was anyone present to speak about the request. Ms. Sandy Miller, the property owner and applicant, came forward to speak on behalf of the request. Ms. Miller explained that the building would have eight garage doors and planned to have community events offered in the structure and store her equipment for restoration of the property. Chair Feick asked if there were any other to speak about the request. Mr. Peugeot asked how the neighbors felt about the structure. Ms. Denise Holoman, the property owner to the south of the property came forward and stated she had no issue with the building if she could wash her windows. Chair Feick added he had received a letter from Ms. Caroline Springer and Ms. Joyce Crosby, in favor of the structure. Vice Chair Semans asked about the current usage of the site. Mr. Ochs answered if anything were to expand beyond the allowed uses of the Public Facilities District a use variance would need to be requested. Chair Feick asked about the setbacks being requested and being sure to obtain the 15 feet from the house and the property lines, and there were two options for the Board to consider (1) was to require a larger setback on the south property line, or (2) would be to add a third variance request for this property and Mr. Ochs would review the applicable zoning code with the Board, and the Board could consider the additional one for approval with the original requested variances. Chair Feick stated he would prefer to stay with the 15 feet setback. Mr. Delahunt wanted clarification as to whether the Chair was asking for 10 feet to be added to the 5 feet shown. Chair Feick stated he wanted 15 feet from the house. There was discussion among the Board on what was shown on the site plan whether it would meet the requirements of zoning code.

Vice Chair Semans made a motion to approve the application as presented with Staff conditions and that all zoning codes were met. The motion was seconded by Mr. Peugeot. A vote was called and the motion to approve the application with conditions passed unanimously.

3. 1137 Cedar Point Road- an area variance to Zoning Code section 1145.15 (a) to allow the construction of an accessory structure in the "side yard" of a R1-75- Single Family Zoning District.

Chair Feick explained that he was representing the applicant and recused himself from the Board for this vote. Vice Chair Semans introduced the application, stated there was no one present in the audience to speak about this application, and asked for Staff report. Mr. Ochs stated The applicant was in the pre-process of replacing an existing structure in the side yard. The proposed structure would be an accessory structure in the side yard. The existing structure was being rebuilt slightly larger and placed further into the side yard to meet floodplain requirements. The zoning code required that all accessory structures were permitted only in the rear yard. The variance being requested was to allow an accessory structure in the "side yard." The variances sought for this property would result in a built condition that fit the large character of the parcel. The side yard of the residential structure, where the accessory structure

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is proposed to be built, has a 75 foot side yard setback. A two-story structure is appropriate in this case, as it closely matches the height of the existing home and did not impede on the lakefront views on the north side of Cedar Point Rd. The backyard was over 11,500 sqft. allowing 3,450 sqft. for an accessory structure. Staff supported the requested variance at 1137 Cedar Point Road (parcel 55-00108.000) and suggested the following conditions upon approval, that all applicable permits must be obtained through the Building Department, Engineering Department, Division of Planning, and any other applicable agency prior to any construction. Chair Feick added the garage on site was below floodplain and the applicant would like to tear down the garage and replace it with an additional one car garage and the whole structure be similar style to the main house. Mr. Ochs wanted to clarify information in the Staff report the 75-foot side yard setback is from the main structure and the yard was long and narrow and would restrict any accessory structures from being built in the backyard and the side yard would be an appropriate placement for an accessory structure.

Vice Chair Semans called for a motion. Mr. Delahunt made a motion to approve the application as presented. The motion was seconded by Mr. Peugeot. A vote was called and the motion to approve the application with conditions passed with votes from all Board Members, except for Chair Feick, who abstained from the vote.

4. 1137 Cedar Point Road- an area variance to Zoning Code section 1145.15 (a) to allow the construction of an accessory structure in the "front yard" of a R1-75- Single Family Zoning District.

Vice Chair Semans introduced the application and asked for Staff report. Mr. Ochs stated The applicant was in the pre-process of replacing a lakefront accessory structure. Cedar Point Road separated the secondary part of the parcel from the main part of the parcel. The proposed structure would be a 26' x 31' beach house on the lakefront / secondary parcel. It was a proposed one-story structure with an average height below 15 feet. The zoning code required that all accessory structures were permitted only in the rear yard. Accessory structures that were permitted in a rear yard must also comply with a 3-foot setback from the side and rear property lines. The variance being requested was to allow an accessory structure in the "front yard. The variances sought for this property would result in a built condition that fits within the neighborhood. Staff observed half dozen files from previous cases on Cedar Point Road like this from historic files. All the single-story structures in the historic files were approved. Given the large parcel and setbacks, Staff did not request a survey to confirm the location of the property lines. Planning staff supported the requested variance at 1137 Cedar Point Road (parcel 55-00108.000) and suggested the following condition upon approval that all applicable permits must be obtained through the Building Department, Engineering Department, Division of Planning, and any other applicable agency prior to any construction.

Vice Chair Semans asked were any questions from the Board of Staff or Mr. Feick. The Board discussed prior applications and what the applicant intended and that the project would require utilities to be run underground.

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Vice Chair Semans called for a motion. Mr. Peugeot made a motion to approve the application as proposed. The motion was seconded by Mr. Delahunt. A vote was called and the motion to approve the application as proposed passed with votes from all Board Members, except for Chair Feick, who abstained from the vote.

Other Business:

There was no other business.

Adjournment:

Mr. Delahunt moved to adjourn the meeting. Mr. Peugeot seconded the motion. All members approved the motion, and the meeting ended at 5:12 pm.

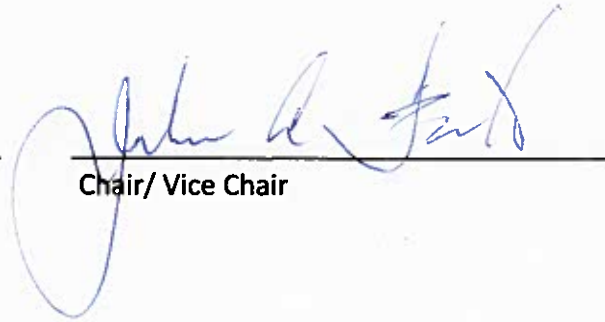
Next meeting:

April 18, 2024

APPROVED:



Clerk



Chair/ Vice Chair