

Board of Zoning Appeals

February 11, 2016

Members present: Chairman Phil Rooney; David Russell, Secretary; Sharon Rooney, and Doug Warren. Todd Richard, Zoning Administrator, introduced Deidre Ramthun who will be helping with BZA duties and taking the minutes.

The meeting was called to order at 6:00 p.m. by Mr. Rooney. Mr. Rooney introduced the members to the audience and the general rules were reviewed.

Case #54336-BA-16 (1233 Lima Avenue) was introduced. Mr. Richard read his comments as follows: Filed by Brian Dewey, on behalf of Chris Nagy, regarding a variance from sections 1135.04A, 1135.04B2, and 1162.06A of the City of Findlay Zoning Ordinance. The applicant has proposed an addition to a machine shop that is required to have a 30' front yard setback, a required 25' side yard setback, and expansion of a nonconforming use. The proposed addition will be 19.9' from the front line, 14.7' from the side lot line, and the expansion of a nonconforming use (machine shops are prohibited in the C-2, General Commercial District).

This property has had a past history of having automotive repair activity. In 2005 a permit was issued under the advisement of the Law Director to allow the current use. Machine Shops were not a specified permitted use in the C-2 District at the time. The current use was considered more of a repair shop. Today's code clearly classifies this as an industrial use.

The City Planning Commission reviewed the site in January and was tabled. This morning, it was brought off the table. At the time Mr. Richard wrote this, the Planning Commission had asked the applicant to provide a plan that met the setbacks and basically leaving the expansion of the nonconforming use as the only real issue; but the Planning Commission viewed the site again. The plan as it is today, it wasn't changed.

The applicant presented some testimony of the City Planning Commission Meeting that neighbors were fine with the proposal. The Planning Commission reviewed the plan. It's got some drainage on it and there was some talk about the access being too wide and some other minor issues were discussed today. Basically, they approved it with the contingency that they get the variances.

This part of Lima Avenue, as you probably know, has had a lot of different uses throughout – industrial and commercial. This particular lot is closer to the residential area compared to some of the other uses to the west. If the use is granted, if the expansion is granted, then the Board should be pretty specific what is exactly being expanded. We don't want to see an opportunity for a more intensive use to come in down the road, a more intense industrial use if this person leaves in ten years. That would be one thing we would want to keep in mind is recognizing what is going on there now which doesn't seem to be a disturbance to the surrounding area and leaving the door open for something that could be more objectionable in the future.

Mr. Richard didn't address the setbacks in his review because he was anticipating an updated plan. It's not a heavily traveled area; it's a residential street with a 60' right of way. Those properties that are south of this are zoned commercial even though they are residential uses. It's an area that probably should be rezoned when the map is updated to an R-2 zone. Those setbacks would be required at 25'. That's what's being proposed with this setback even though it's not a residential use.

Chairman Rooney swore in Dan Stone, Van Horn Hoover and Associates, 9747 U.S. Route 224, Findlay, and Brian Dewey, operator of the business. Mr. Stone stated that this expansion of industrial use is currently zoned commercial. This area is quite a bit mixed use – there's a lot of industrial across the street, there's been commercial industrial just to the west, there's outside storage to the east with industrial use; so with that Mr. Dewey has been leasing this building for a few years now doing a minor fabrication shop. His business is expanding and he has a potential to purchase this property. He would like to stay here; it's a good location for him. As part of his expansion and with his operations, he does need to expand a little bit more and that's why they're here first for the expansion of the nonconforming use.

With regard to the setback variance they're requesting, the first one is the side yard setback along the east side. The current building sets about 15' off the current property line. It is their intent to extend that same wall line. Due to the slight angle of the property they are just a little bit below 15' and they're not really extending closer to the property line building line wise. That was a good starting point for construction to try to keep that wall the same.

With regard to the other setback, Mr. Richard referred to it as a front yard setback, this property is on a corner so it does have two streets. The variance they are requesting is along Blaine Street which is a very short road and does not have a lot of traffic. They're not looking to go into Lima.

Mr. Dewey did contact all of the property owners to discuss the operation, the expansion. All but one responded positively and had no problems with it. The one that did respond with somewhat negativity had only to do with drainage. As Mr. Richard stated, we do have a detention pond shown on the south side of the property.

There is a 30' building setback along the south side. We are putting a detention facility in there that will collect the rain water from this proposed improvement. It's a low spot on the site so it will intercept the site water as well as allow off site water to drain into the property and out into the roadway without trapping it or ponding it on someone else's property. We feel that we have addressed the drainage issue, the City Engineer has reviewed the drainage calculations and has approved those as part of the site plan.

Doug Warren stated that water is being moved away from Charles Smith's property, and Mr. Stone confirmed that fact.

Doug Warren asked if they looked at alternatives, understand the building line, and asked several questions. The main issue would be to the south and to the east. To the south you're conforming, so there is no problem. On the east side, the southeast corner of the building is already nonconforming with the 25' setback. Did you look at the feasibility of notching 10' out and trying to maintain the 25'? Mr. Dewey said that he needs 4500 square feet for 10' of office in the back and space for additional equipment, material, and restrooms. If he moves the office, he will lose 20'. Mr. Warren verified if that is in the work area, and Mr. Dewey confirmed that it was.

Communications:

Mr. Richard read a letter received today from Charles Smith addressed to the City of Findlay Planning Commission. The letter is as follows:

“Dear Commission Members: This is in regards to Property in review for expansion and setback adjustments. I Charles Smith, owner at 2024 Elyria St., Do not approve of setback variances nor zoning changes. After viewing the plans, I noticed a neighboring buildings missing, drain flow (storm water), and that along with property neglect (which has been improving) Lot size, etc., I feel there are too many issues with construction in that tight of a lot. My property being lowest of all neighboring adds additional concern of standing water. The property next to mine has a building for storage which is not on plan. The building sits about 3 feet from read lot line on Lanagan’s property, and 6 feet from my side lot (N.W. Corner) where new building would locate, adding to my concerns of drainage and safety. Thank you, Charles Smith.” After discussion and questions about the drainage, the drainage was approved by the Planning Commission and their process should take care of any drainage problem. Mr. Stone explained the survey process.

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Mr. Warren drove by the property this week and said that is very nice and neat. He asked if this is typical; Mr. Dewey replied that it is typical. He is going to move the barrels of shavings inside the building. Mr. Stone said that this is part of the reason why Mr. Dewey needs the building size. Since it is staying commercially zoned, it is not allowed to have external storage. There has been discussion about the property being in disrepair, fence lines being overgrown. As part of the plan requirements, we’re going to take down the existing chain-link fence, clean up all of the scrub brush and trees, put up a new privacy fence and new landscaping. This is required by code because we are against a residential use. The fence will be constructed above the surface of the ground to let any surface water go through and not dam up into the lower spot. The Board wanted to make sure there was no outdoor storage.

Mr. Russell asked the applicant what type of activity is used on this property. Mr. Dewey informed the Board that it is a job shop, machine shop. They make repair parts for Cooper Tire, businesses in Tall Timbers, etc. He gave the example that if a machine is broken down or has a part off, they bring him a print, he machines it, takes it to them, and they get back up running.

Chairman Rooney questioned if we were considering a use variance. Mr. Richard stated that a permit for this use was issued in 2005 which includes old notes about this property. Chairman Rooney asked if this was part of the strip of land that still needs to be rezoned. Mr. Richard stated that he thinks so; there was some talk of getting a zone change. This was way back when Gary was here and Bill and it kind of fell by the wayside, and we issued a permit based on legal counsel so it would be a legal, nonconforming use. All he’s wanting to do it is expand it; he’s not changing the use. It’s really important that we understand exactly the activity, the type of machinery so we’ve got a baseline for the future. If he outgrows this place in ten years, we don’t want somebody saying there was kind of an industrial use here and they want to put a body shop in there or want to cut and weld and do some heavy duty type things, and we haven’t made your intentions real clear if you grant this; so we have something to lean on here.

Mr. Warren stated that he don't believe we have to worry about the future other than when he's here because it's a C-2 zoning and whoever purchases it will buy it as a C-2 piece of property and has to conform to commercial use. Chairman Rooney stated that yes, that's true; but if a new user comes in within a certain time frame, they can't claim the same use, right? Mr. Richard stated that it stays with the land. Let's say that if it stays vacant for two years or more, it loses its nonconformity, it goes strictly to a C-2 use. If he outgrows it in ten years and there's somebody wanting to lease it from him but the guy does something that's more intensive than what he does. Mr. Warren stated that he can't do it, he doesn't have permission. Mr. Richard said that we just need to make sure that your decision reflects that. It needs to be a clear line here that we're drawing of the intensity of the use. If someone comes in and does the same type of work that he does, fine, that's an even-stein trade; or if somebody wants to retail out of it, then we're getting back to what is more permissible in the C-2 district. It's keeping it from going deeper into the industrial type use.

Mr. Warren stated to Mr. Dewey that he needs to be careful when you buy this and setting yourself up because this is what you're doing to yourself. Every time you want to do something you're going to be back here and be at the mercy of someone's decisions so I think you need to think about that as you make your investments. He thinks there's an extenuating circumstance. Following that building line on the east side makes sense. Mr. Dewey has given us a reason why it's inefficient, he needs the space. I'm pro-business and trying to be sensitive to small business. It does makes sense that you continue that building line; minimize that setback along the building line to as close to 15' as you can and really need a number. Is it no more than 14', what is that number? Mr. Stone stated that at the closest point, it's 14.7'. Mr. Warren said that no more than 14.7', so you can subtract that from 25 so your variance is a maximum of 10.3' following the building line. On the west side, build it as proposed even though you're outside of that front yard setback. He doesn't see it as an issue; you're against Blaine and everything around there is kind of an industrial, commercial type environment. Make note that the neighbor's concern of drainage and really even the appearance in that southeast corner up against the Smith property is going to be improved by your drainage plan and by the requirements of fencing and landscaping. That concern is met. Given that, I'd say pick up your permits within sixty days and make a motion that we approve the variance.

It was asked if Mr. Warren wanted to put something in his motion regarding nonconforming use. Discussion was held of nonconforming use. Mr. Warren stated that we're approving the extension of the nonconforming use and that nonconforming use should have been written up the last time. He's going to assume there's already some stipulation on the nonconforming use that you're a light millwright or a light metal workshop. It's almost impossible to define that. You've said your lot is neat and it's going to get neater. He's a light metal worker. Mr. Richard said that you've made the delineation of what we're talking about and if in the future something else came in, the Board has a right to interpret some of these things as they happen. Mr. Warren said that he likes the idea that they can't store outside and can't work outside based on C-2 already. That could be a concern that's eliminated.

Chairman Rooney stated that there is a motion to approve the variance as requested with the regular stipulations about getting your permits. The motion was seconded by Sharon Rooney. The motion passed 4-0.

Case#54347-BA-16 (the block bounded by Davis Street, Morey Avenue and College Street) was introduced. Mr. Richard read his comments as follows: A request from section 1154.04B of the Zoning Ordinance has been filed by the University of Findlay. This section requires a 40' front yard setback; a 30' front yard setback has been proposed. A number of existing student housing dwellings will be removed from the block and be replaced with the proposed building. The University owns most of the property surrounding the project so the impact to the surrounding property owners is going to be very unnoticeable. They're trying to create the campus atmosphere. On the other hand, there is space to the south to adjust the building setback. He was informed today that there is an alley to the south. They're trying to avoid that with the utilities, so that's one factor probably, and I'm sure that Mr. Jenkins will touch on that with more detail.

Chairman Rooney swore in Todd Jenkins, Peterman & Associates, 3480 North Main Street. As Mr. Richard explained to you, we're looking at a front yard setback variance. In this area, the University owns every property that is around this. There is not a single property around this building that they do not own at this time. There is one property off of College Street and that person was given permission to remain in that house with access to the garage off the alley that Mr. Richard referenced until the end of May. We did have to look at positioning things to allow her to continue to access the garage. There are also east/west utility lines, mainly electric and communications, that ultimately will come down but are not down as of yet. These are two of the restrictions on the south side and why we put the building in that location. When we initially started this project, we met with members of Regional Planning and discussed where to put this building and the setbacks, etc., and the general idea was as long as we met or exceeded the setback for the Davis Street building, which is directly across the street, we should be in decent shape. When we laid this building out, we actually exceeded those setbacks of what Davis Street has across the street. The 30' setback that was requested is actually to the column line of a canopy over the entrance of the building. It not actually a part of the building itself, but to the columns for the canopy over the Business College entrance. If you look at the different components of the building, the main building line, the west side of the building, does meet the 40' setback. There are three bump outs as you move to the east. Those are 35' in height and their setback is just over 35' to those. The main entrance to the building is almost 38' where the actual doors are underneath the canopy. The 30' is to that column line. Looking to create the campus atmosphere, we did want to try to keep it as far north as we could but felt that going up to the 20' like the Davis Street building was a bit excessive. We didn't do that but we do want to maintain as much green space to the south as possible. In order to get going on construction, we need to look at and focus on the building area. This campus green area to the south, which is going to be a very nice amenity to campus, is going to be the third phase of the overall project so it will be closer to the end of 2016 or into 2017 before it is completed. The building is scheduled to be occupied in August of 2017. We were at Planning Commission this morning. There were a few conditions on the site plan approval; nothing major as far as any of the Engineering items. One was contingent upon getting the variance from the BZA.

Chairman Rooney made a motion to approve the variance as requested. The only question was why is it in the setback, and I think it's been answered that they've got some issues with an existing alley and some other easement things that are going through there. I think that's a legitimate concern; you can't put the building over the easements, so I will make a motion to approve the variance as requested with the standard stipulations about picking up your permits. The motion was seconded by David Russell. The motion passed 4-0.

Mr. Warren made a motion to approve the minutes from the December 2015 meeting. The motion was seconded by Mr. Russell. The motion to approve the minutes passed 4-0.


Election of Chairman and Secretary for 2016:

Mr. Richard informed the Board that Officers need to be reassigned. A motion was made by Mrs. Rooney to nominate Mr. Rooney as Chairman. Said motion was seconded by Mr. Warren and the motion was unanimously carried. A motion was made by Mr. Rooney to nominate Mr. Russell as Secretary. Said motion was seconded by Mrs. Rooney and the motion was unanimously carried.

The meeting was adjourned.



Chairman



Secretary