

Board of Zoning Appeals

March 12, 2020

Members present: Chairman, Phil Rooney; Blaine Wells; Kerry Trombley; and Brett Gies.

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

The following was introduced by Mr. Adkins:

Case Numbers: 59387-BA-20

Address: 2440 Bright Road

Zone: I-1 – Light Industrial

Filed by Ronald Smith, on behalf of Quality Lines, regarding a variance from section 1141.04(A) of the City of Findlay Zoning Ordinance concerning a front yard setback at 2440 Bright Road. The applicant is proposing to construct a new industrial building with a 10.3-foot front yard setback. This section requires that the new building must meet a 50-foot front yard setback.

At one point, prior to the construction of the new industrial building to the north and the extension of Production Drive, the northern property line in which the construction is proposing was considered a side yard. If today that was still the case, the owner would need to be seeking relief from a 30-foot setback. However, once Production Drive was dedicated to the city, the proposed property line became a front yard and required a 50-foot setback from the north property line.

Discussion at the CPC prompted a concern about allowing for such a significant setback that would set precedence in regards of future development in the I-1 Light Industrial district throughout the city. Mr. DeArment and Mr. Clinger, from the CPC, suggested that at minimum a 30-foot setback would be ok; however, they would be against anything greater. Upon discussion, the project was tabled until the Board of Zoning (BZA) rules on the matter.

The city agrees with those concerns that the two members of CPC had that such a significant variance could set a precedence in the future and make it harder to deny any request by any future developer wanting the same relief. Furthermore, this variance request does not create an undue hardship and the harmony of future development to the western lot will be impacted if such a request is approved.

The owner of the property made an argument during the CPC meeting that the property currently has a chain link fence 10-feet off the property line, which is the setback set forth and allowed by the zoning code for the I-1 Light Industrial District, and he felt that he should be allowed to construct his building at that point. However, though both are structures, a fence is not in the same classification as a building, and the city is strongly against the setback requested.

Mr. Ronald Smith, 22283 Township Road 177, was sworn in. He stated he wants to put his building on the fence line which is 10' from the property line instead of the required 50'. Production Drive is a dead-end street that will never be a thorough way to Crystal Avenue so having his building at a 10' setback will not have any visual obstructions for anyone. He stated he went in front of the City Planning Commission (CPC) this morning and they stated they would not authorize a 10' setback but would consider a 30' setback. Mr. Smith stated he is in the hopes that the Board of Zoning Appeals (BZA) would grant his request for a 10' setback.

Mr. Trombley asked Mr. Smith if he had spoken to the neighbors about his request for a variance. Mr. Smith stated he did and they support his request; and he was looking at possibly purchasing a portion of a neighboring property owned by Randolph Strauch.

Mr. Trombley informed Mr. Smith we had received a letter from Mr. Randolph Strauch stating he was not in support of the variance. Mr. Smith stated he was unaware that Mr. Strauch was not in favor of the variance.

Mr. Trombley asked when Production Drive was dedicated. Mr. Adkins stated it was established upon the completion of the Nissan Brake facility approximately 9 months to a year ago.

Mr. Wells asked if Mr. Smith has given thought to eliminating one of the storage buildings to be able to meet the required 50' setback. Mr. Smith stated eliminating one building would take away from his profit and hurt him financially.

Mr. Rooney asked Mr. Smith what he is intending on doing with the area of property that sits south of the parking lot. Mr. Smith stated that it would not give enough room for turn around for his business equipment or fire trucks if needed.

Mr. Rooney asked if he could move the office building to a different location on the property to meet the required setback. Mr. Smith stated it would still not allow enough turn around room.

Mr. Dan Stone, was sworn in. He stated the layout, in part, will avoid excessive traffic off of Bright Road; and the buildings are laid out so the doors are not facing west.

Mr. Trombley asked Mr. Smith what makes his property unique, what's the hardship, that the Board should grant your request for the variance that goes against what the code says?

Mr. Smith (inaudible)...

Mr. Wells re-stated Mr. Smith's explanation of his hardship being if he were required to meet the code, he would lose either one-half or one full building, which would hurt him financially.

Mr. Trombley asked Mr. Smith if he was asked prior to putting in Production Drive road? Mr. Smith stated he was asked and was alright with it because he could use Production Drive to access his property.

Mr. Gies asked if the building used for the office and equipment storage could be oriented to be more of a rectangle instead of a square? Mr. Smith stated the way it is set up is to utilize workspace.

Mr. Trombley asked if Mr. Smith has looked at every option for the plan.

Mr. Smith stated he is using the same plans from 2016 which had a smaller setback because Production Drive was not there at the time. (inaudible)...

Mr. Adkins stated a letter of communication was received and Mr. Kyle Inbody will read the letter into record.

Mr. Inbody read a letter received from C. Randolph Strauch, requesting the variance requested be denied.

Mr. Adkins stated there are no additional communications on this case.

Mr. Wells asked Mr. Adkins if he understood correctly that the CPC was in favor of the 30' setback? Mr. Adkins stated if Mr. Smith went with a 30' setback, the city would be comfortable with that since when the original plans were submitted in 2016, there was no road there and the setback was 30' then.

Mr. Trombley stated that since it is not a residential area, it is in harmony with locality and there is not much more that can be built there, it is not a significant request; however, he would hate to set a precedence allowing it so close to the road; so, he would be comfortable with a 30' setback.

Mr. Wells agreed. He stated the original request for 10' is excessive and Mr. Smith is benefitting from Production Drive so he is comfortable with the 30' setback.

Mr. Wells made a motion to grant a 30' setback off of Production Drive in leu of approval by City Planning Commission.

Mr. Trombley seconded the motion.

Motion to approve a 30' setback instead of the requested 10.3' setback for variance, in leu of approval by City Planning Commission, 5-0.

The following was introduced by Mr. Adkins:

Case Number: 59330-BA-20
Address: 2000 Rush Creek Court
Zone: CD – Condominium District

Filed by Todd Olsen, on behalf of Mary Kay Combs, regarding a variance from section 1125.05(A) of the City of Findlay Zoning Ordinance concerning a front yard setback at 2000 Rush Creek Court. The applicant has constructed a new privacy fence with a 33-foot front yard setback. This section requires that the fence must meet a 40-foot front yard setback.

The fence was constructed without a permit back in 2019. At the time of applying for a permit, it was determined at that time the fence did not meet zoning requirements and should have been constructed 40-feet from the Bright Road right-of-way.

Typically, a front yard in the condominium district is 25-feet; however, this property is located along a major thoroughfare and requires a 40-foot front yard setback. The fence was constructed at the building line of the condominium and would not set a precedence if the variance were approved. Whether the variance is approved or denied, a permit still needs to be obtained and will have a triple fee attached to it due to the work being completed without a permit.

Mr. Todd Olson, 507 E. Main Cross St., was sworn in. He stated a condominium setback is a required 40' setback and a typical setback from a main thoroughfare is 25'. The condo was built with a 30' setback in 2012, prior to zoning changes. He understands that this lot being a corner lot has two front yards and the required setbacks are in place so oncoming traffic view is not obstructed. Requirements say a fence can be put up to the property line as long as it does not exceed 4' in height and is 50% open as to not obstruct oncoming traffic. He is asking to allow the fence be from the corner of the home and run to the north in line with the home, which does not obstruct view at all. There was an existing rotting wooden fence there that he tore down that provided more privacy than the one he is requesting.

Mr. Rooney asked if anyone else would like to speak on this case.

Mr. Milan Stocking, 2004 Rush Creek Court, was sworn in. He stated the previous owner let the property go bad and did not do up keep on the previous wooden fence and as a result it had fallen apart. There is a lot of noise along Rush Creek and a privacy fence helps block the noise out. He is glad to see that the owner of this property has put a lot of money into the property to fix it up. He thinks the new fence looks nice and should not have to be moved.

Mr. Adkins stated there are no communications on this case.

Mr. Trombley made a motion to approve the variance as requested. It is in harmony with locality and a very insignificant variance because it follows the existing site line of the house.

Mr. Gies seconded the motion.

Mr. Rooney reminded Mr. Olson a permit must be obtained.

Motion to approve the request for variance, 4-0.

The following was introduced by Mr. Adkins:

Case Numbers: 59331-BA-20

Address: 221 Crystal Avenue

Zone: I-1 – Light Industrial

Filed by Rod Nelson, regarding a variance from section 1141.04(A) of the City of Findlay Zoning Ordinance concerning a front yard setback at 221 Crystal Avenue. The applicant is proposing to construct a new smoker's patio with an 18.1-foot front yard setback from Ash Avenue and a 38.3-foot front yard setback from Crystal Avenue. This section requires that the smoker's patio must meet a 50-foot front yard setback from both right-of-ways.

The addition being proposed is an opened face structure that will not increase the existing building line. The construction could be treated more like an infill situation since the addition being built within the already established building line. Being that the addition will not interfere with the harmony of the neighborhood, the city would not be against approval if the board deems necessary.

Mr. Rodney Nelson, 803 Tarra Oaks Drive, was sworn in. He stated he bought Lucky's Tavern, carry out & laundromat in 2018 and trying to fix it up. Thought it would be a good thing to get the smokers off of the sidewalk so other patrons do not have to walk through the smoke to enter the establishment. The smoker's patio's roof line will be in line with the current roof line.

Mr. Trombley asked Mr. Nelson if the patio was going to be fences in. Mr. Nelson stated it would be.

Mr. Trombley asked if there would be alcohol and alcohol sales out on the patio. Mr. Nelson stated that will be subject to the approval of the liquor control board.

Mr. Trombley asked how tall the fence will be. Mr. Nelson stated it would be 6' high for visual screening more than noise screening.

Mr. Trombley asked Mr. Nelson if he ever considered putting the patio in the rear. Mr. Nelson doesn't think it will be in harmony with the look of the building.

Mr. Adkins stated there are no communications on this case.

Mr. Wells made a motion to approve the variance as requested. He considers this as an infill situation.

Mr. Trombley proposes motion be amended to include a minimum 6' high fence surround to help screening.

Mr. Wells amended his motion: Motion to approve the requested variance and to add a fence, at least 6' in height, around the patio area.

Mr. Trombley seconded the motion.

Motion to approve the request for variance with the condition the patio enclosure be surrounded with a fence, a minimum of 6' in height, and the applicant get the required permits prior to construction, 4-0.

The following was introduced by Mr. Adkins:

Case Numbers: 59380-BA-20
Address: 325 E. Lincoln Street
Zone: C-2 – General Commercial

Filed by John Archer, regarding a variance from section 1161.01.1(D)(2) of the City of Findlay Zoning Ordinance concerning a side yard setback at 325 East Lincoln Street. The applicant is proposing to construct a new 24 X 22 detached garage with a 1-foot side yard setback. This section requires that the accessory building must meet a 3-foot side yard setback.

Currently, there is a detached structure that is located 1-foot from the side yard property line that was constructed at some point in the past and is currently grandfathered. The owner would like to be able to build their new detached structure with similar aesthetics as the existing grandfathered structure.

Throughout the immediate area, there are many structures that would not meet the required side yard nor rear yard setbacks from accessory structures in today's zoning code. Though the City of Findlay would prefer that the building meet the required setback, the harmony of the neighborhood would not be affected if the Board granted the variance.

Mr. John Archer, 325 E. Lincoln Street, was sworn in. He stated he has concrete in place that has been there 35 – 40 years and it is 7-8" deep and he would like to use the existing footprint of the concrete to build his new 24' wide x 22' deep garage which would be 1' off of the property line. The new garage would be in line with the existing garage. He would use the new garage as a workshop and for car storage.

Mr. Adkins stated there are no communications on this case.

Mr. Trombley asked Mr. Archer if he spoke to the neighbors about the variance request. Mr. Archer stated he spoke with the neighbor to the east, whom would have the most impact on, and the neighbor stated he had no problem with it.

Mr. Gies made a motion to approve the variance as requested contingent on getting the required permit within 60 days.

Mr. Wells seconded the motion.

Motion to approve the request for variance with the condition of getting the required permit within 60 days, 4-0.

The following was introduced by Mr. Adkins:

Case Numbers: 59388-BA-20

Address: 1735 Logan Avenue

Zone: R-2 –Single Family, Medium Density

Filed by L. Wayne Breitigam, regarding a variance from section 1161.01.1(A)(2) of the City of Findlay Zoning Ordinance concerning the maximum accessory floor area at 1735 Logan Avenue. The applicant is proposing to construct a new 12 X 12 gazebo, which will exceed the allowable maximum floor area for the property. This section allows for a maximum of 900 square feet of floor area per property.

This parcel is just under an acre, which allows for a total of 900-square feet of building floor area. Currently, the owner has two pole barns that exceed that allowable total by 971-square feet. Both buildings were built prior to the 2012 zoning code update and are grandfathered.

At the allowable 33-percent coverage amount, the owner would still have approximately 1900-square feet available to develop if there were no restrictions, like those that were added in 2012. In retrospect, asking for 144 additional square feet of floor area is a minuscule request and it appears to agree with the 25 neighbors who signed Mr. Breitigam's petition.

If the board were to grant the request, we would ask that if for any reason the 144-square foot gazebo be damaged, removed or replaced by only a similar structure.

Mr. L. Wayne Breitigam, 1735 Logan Avenue, was sworn in. He stated his 60th wedding anniversary is in June and he got a gazebo at an estate sale and he wants to put it up and put a picnic table in it for his wife to sit in and enjoy the out doors without being bothered by insects, rain, and sun. He stated this is a 144 square foot gazebo on a property over 9000 square foot. He had 25 surrounding neighbors sign a statement that they have no problem with him putting the gazebo on the property. He stated it would not affect any property values in the neighborhood and would enhance the neighborhood. He is very upset that he had to pay \$250 to apply for this request for variance.

Mr. Adkins stated there are no correspondences on this case.

Mr. Rooney made a motion to approve the requested variance.

Mr. Trombley seconded the motion.

Motion to approve the request for variance, 4-0.

Mr. Trombley thanked Mr. Breitigam for putting in the time and effort to speak to the neighbors before coming in to the board.

Mr. Adkins stated Mr. Breitigam would need to obtain the required permit prior to placing the gazebo on his property.

Minutes for November 14, 2019 Board of Zoning Appeals meeting approved.

Mr. Adkins stated:

Mr. Doug Warren has resigned from the Board of Zoning Appeals.
Ms. Sara Gillespie will take Mr. Warren's spot as a full-time member.
We are still in need of someone to hold the alternate position.

Mr. Adkins stated we need to nominate for the positions of the Chairman, Vice Chairman, and the Secretary positions.

Chairman: Mr. Trombley nominated Mr. Rooney for Chairman. Mr. Wells seconded the nomination.

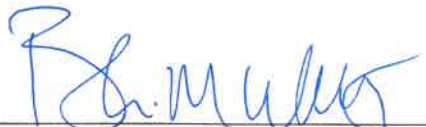
Vice Chairman: Mr. Wells nominated Mr. Trombley for Vice Chairman. Mr. Rooney seconded the nomination.

Secretary: Mr. Rooney nominated Mr. Wells for Secretary. Mr. Trombley seconded the nomination.

All nominees approved, 4-0.

The meeting was adjourned.



Chairman

Secretary