

MINUTES
Board of Building & Zoning Appeals
City of Willoughby Hills, Ohio

August 9, 2016

CALL TO ORDER: 8:02 pm

PRESENT: Chairman Frank Cihula, Vice Chairman John Klements, Robert Bartolotta
and James Michalski

ABSENT: Mark Kotoch

ALSO PRESENT: Clerk, Katherine Lloyd

MOTION: John Klements moved to excuse Mark Kotoch.
Seconded by Robert Bartolotta
Roll call: 4 Ayes.
Motion passes.

DISPOSITION OF MINUTES – Meeting of May 10, 2016

Two typos were corrected from the copy you received in your packet. Updated copy distributed tonight.

MOTION: John Klements moved to approve the Minutes of May 10, 2016 as submitted.
Seconded by Robert Bartolotta
Roll call: 4 Ayes.
Motion passes.

The Minutes of June 14, 2016 and July 12, 2016 are not ready yet.

Format used and rationale for these two sets of minutes was discussed. That is not the plan for the future.

CORRESPONDENCE

Notification dated 7/29/16 was sent to News-Herald re: August 9, 2016 BZA meeting.

CASE 2016-3

Mr. George J. Argie, of Argie, D’Amico & Vitantonio, 6449 Wilson Mills Rd. Mayfield Village, for Michael D. Gatto, for WHOB LLC, 29010 Chardon Rd. requests to amend the restrictions of the Quit-Claim Deed adopted by the Board of Building and Zoning Appeals in Case No. 1986-6, 7-22-86 and recorded in Vol. 234 Pages 458-466, and as amended in BZA Case No. 2006-4, 8-8-2006, recorded as Document No. 2006R035882 of the Lake County Deed Records in order to limit the Deed Restrictions to the rear portion of the property Zoned R-1. The property is located at 29010 Chardon Rd. (PP# 31-A-008-F-00-028-0), is owned by WHOB LLC and is known as Squires Square.

Notice was mailed to property owners within 500 feet of said property. Drawings were available for review in the lobby of City Hall. Legal notice was advertised in The News-Herald on June 4, 2016. The appeal was heard on June 14, 2016, continued to July 12, 2016 and it is back before the BZA Board this evening for its final conclusion.

PRESENT: No one for WHOB.

The Chairman reported that the Law Director will not be present this evening. Mr. Argie and Mr. Gatto have approved the amendment to the Declaration of Restrictions that was last presented to the Board. Mr. Gatto is happy with the final outcome of the Declaration. He will not be present tonight but he plans to execute the Declaration this Friday. Arrangements have been made for a notary and witnesses at City Hall so it can be concluded.

Even though the Declaration of Restrictions were adopted at the July meeting, they are being re-presented for Board review to avoid confusion because of the changes that were made since the last meeting, and also Number 2 was restructured. The new pages 1, 2 and 3 are included. The Board received a red line, strike-through and underlined copy of the changes. The Board received tonight a clean copy of that document with the date in the upper right hand corner, which can be inserted with pages 4, 5, and 6. The Chairman has the 3 clean pages to insert in the Declaration so that it can be executed.

Public Portion for Case 2016-3 opened at 8:13 p.m.

No Public Input

Public Portion for Case 2016-3 closed at 8:13 p.m.

MOTION: John Klements moved that the Board approve the final Declaration of Restrictions with the draft copy dated 8/9/2016 as presented to us tonight for Case 2016-3 for the property located at 29010 Chardon Rd.
Seconded by James Michalski.
Roll call: 4 Ayes.
Motion passes.

The Declaration of Restrictions for WHOB, LLC at 29010 Chardon Rd. has been approved.

The next item is Resolution 2016-2 which is identical to Resolution 2016-1 except the first section repeals Resolution 2016-1. The purpose of the BZA Resolution 2016-2 is to authorize the Chairman to execute the Declaration of Restrictions as provided for in the boilerplate of the Declaration of Restrictions.

MOTION: John Klements moved to adopt BZA Resolution 2016-2.
Seconded by James Michalski.
Roll call: 4 Ayes.
Motion passes.

BZA Resolution 2016-2 has been adopted. It was signed by all the Board members who were present. The Chairman has arranged for the Declaration of Restrictions to be executed on Friday, 8/12/16 at Noon. Three copies will be executed. The Chairman keeps one copy for the Board. Mr. Gatto will take the other two copies to be recorded, get the Recorder's Office stamp on them, the document number stamped on them and return one stamped, recorded to us (BZA). That should close the issue.

CASE 2016-9

Dolores M. Lyon, 38455 Berkshire Hills Dr. requests a variance to construct a carport at 38705 Chardon Rd. 9' from the right side property line and no closer to the ROW than the existing garage. Section 1133.04(a)(7)(B) of the Codified Ordinances requires a minimum 15' side setback from the lot line.

Notice was mailed to property owners within 500 feet of said property. Drawings were available for review in the lobby of City Hall. Legal notice was advertised in The News-Herald on July 30, 2016.

As is our policy, most if not all of the Board members have made a site inspection.

PRESENT: Gilbert and Delores M. Lyon

Stated reason for variance request:

They are updating a 60 year old house that needs curb appeal and more car space. Most garages these days are 2-car up to 4-car.

Board Members:

It is not unusual for the Board, in granting variances, to put stipulations on them that bind you to certain things in order to get the variance. For example, we had a variance for an open carport with a sideline problem similar to this one years ago. Its variance specified that it should never be enclosed and it has not been enclosed.

One drawing shows 9'6" which includes 6" for the overhang

The applicant questioned the surveyor's plot and the Zoning Inspector's ROW distance and whether it is the new ROW and not the old ROW from when the house was built. The Zoning Inspector described both of those. The appeal was worded such that the carport will be no closer to the ROW than the existing garage which is a fixed entity. That is the minimum. The carport can be set further from the ROW but no closer than the existing garage.

One drawing shows a window and the color rendering shows a door. The applicant is undecided whether add a second door or stay with the window. The original window in the garage is the one shown in photo. The color rendering was intended to clarify the difference in roof lines and setbacks. The Architectural Review Board would need accurate plans for a Building Permit application.

Public Portion for Case 2016-09 opened at 8:27 p.m.

No Public Input

Public Portion for Case 2016-09 closed at 8.27 p.m.

Board Discussion: None.

MOTION: John Klements moved that the Board approve Case 2016-9 as requested and grant a variance at the property located at 38705 Chardon Rd. with the stipulation that the carport must remain open on three sides in perpetuity.
Seconded by James Michalski.
Roll call: Ayes unanimous.
Motion passes 4/0.

The request has been granted. Case 2016-9 has been approved with the stipulation that the carport must remain open on three sides. The next step is to return to the Building Department with a set of plans showing exactly what will be built for Architectural Board review and approval. After that, you will need a building permit. BZA Appeals are good for one year from the granting of the variance for the applicant to obtain a permit. Architectural approval is good for 6 months.

CASE 2016-10

Christina Vidrick, 2795 Oak St. requests a variance to construct a detached 20x20 ft. garage 20' behind the house and 3' from the right side property line. Section 1133.10(f) Schedule 1133.10(b) of the Codified Ordinances requires a minimum 15' setback from the side lot line.

Notice was mailed to property owners within 500 feet of said property. Drawings were available for review in the lobby of City Hall. Legal notice was advertised in The News-Herald on July 30, 2016.

PRESENT: Christina Vidrick (owner) and Sonya Golden (neighbor on the 3' side)

Stated reason for variance request:

The house was built in 1920 with no garage or driveway. Applicant needs to put up a garage. She is also installing a driveway. This is the only feasible spot for the garage. I tried a couple spots and there is a well in another spot. I want to go straight back.

Board Members:

During site inspection, other residences down Oak St. were observed to have structures about 3' from the property line. It is a much older neighborhood that has already established a pattern that some of the structures or garages are within 3-4' of the property line.

Ms. Golden got a 9' variance on her property about 30 years ago. There is a lot of shrubbery and bushes along the common Vidrick and Golden property line on Ms. Golden's property which will remain as a screen.

The side yard variance is measured from what sticks out furthest from the house, i.e. eaves, gutters or overhangs. The 3' is measured from the eave, not the wall. The drawing shows measurement of the 3' side clearance from the house foundation. Therefore, the garage would need to be moved over 6-8 inches toward the tree to accommodate measurement of the 3' side yard clearance from the eave of the house. The overhang is 5" so the measurement to the foundation would be 3'5".

The name of their neighbor across the street, Breskovar, was erroneously put on the drawings by the person who drew them. The drawings need to be corrected to the name of the applicant. Measurements of the garage on the elevation drawing are incorrect. The elevation drawing needs to be corrected to read 20x20 feet, not 20x22 feet. The appeal itself was written from information on the application provided by Building Commissioner.

Public Portion for Case 2016-10 opened at 8:45 p.m.

No Public Input

Public Portion for Case 2016-10 closed at 8:45 p.m.

MOTION: John Klements moved that the Board approve Case 2016-10 as requested and grant the variance for the property at 2795 Oak St because of the existing neighborhood patterns -- structures already similar to this – with the following stipulations: that the builder understands that, contrary to the drawing, the building is to be 20x20 ft. not 20x22 ft. and that all parties understand that the setback is to be measured from the furthest projection of the building which is the overhang, not the foundation of the building.
Seconded by James Michalski
Roll call: 4 Ayes.
Motion passes.

The request has been granted. You need to get your drawings corrected by the person who drew them. Then see the Building Commissioner with the corrected drawings for application to the Architectural Board of Review. If approved, then get your building permit.

Ms. Vidrick and Ms. Golden clarified what needs to be done by the builder: make sure the overhang is 3' from the line; the garage needs to be moved over 5"; the garage needs to be drawn as 20x20, not the 20x22 that is on the plan; and take Mr. Breskovar's name off the drawings.
The original application will be signed by the Chairman and a copy of it will be placed in the Building Department mailbox so the Building Commissioner has it in the morning. The original goes in the Case File. Mr. Michalski marked a set of plans for the applicant.

UNFINISHED BUSINESS

None

NEW BUSINESS

MOTION: John Klements moved that the Board open the meeting to the Public.
Seconded by James Michalski.
Voice Vote: Ayes Unanimous.
Motion passes.

Public Portion for New Business opened at 8:54 p.m.

Mr. Jim Walsh, 38755 Berkshire Hills Drive

It was such a pleasure to sit here and watch how well you all work together.

Public Portion for New Business closed at 8:57 p.m.

CHAIRMAN'S COMMENTS

At this time I am not aware of any pending appeals. However, once the unapproved minutes are ready, a meeting will likely be called to approve them even if there is no appeal.

MOTION: John Klements moved to adjourn
Seconded by James Michalski.
Voice vote: Ayes unanimous.
Motion passes 4/0

Meeting adjourned at 8:58 PM

*Note that it is the policy of the Board to make site visits to guide them in making their decisions.
Note that BZA meetings are recorded and recordings are considered a public record.*

"Decisions of the Board of Building and Zoning Appeals shall be final within the Municipality, except that an appeal therefrom may be taken to any court of record in accordance with laws of the State of Ohio, by any proper and interested party including the Municipality."

Katherine D Lloyd
Clerk

8-21-16 kdl

Frank J. Cihula
Chairman

Date approved: 9-13-2016