

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

April 9, 2013

CALL TO ORDER: 8:04 pm
PRESENT: Chairman, Frank Cihula; Vice Chairman, John Klements
Robert Bartolotta, Mark Kotoch
Clerk, Joan Motuza
ABSENT: Ron Caporossi

MOTION: John Klements moved to excuse the absence of Ron Caporossi.
Seconded by Mark Kotoch
Roll call: Ayes unanimous.
Motion passes 4/0.

DISPOSITION OF MINUTES OF JANUARY 8, 2013

MOTION: Mark Kotoch moved that the Board approve the minutes as submitted.
Seconded by Bob Bartolotta
Roll call: Ayes unanimous.
Motion passes 4/0

CORRESPONDENCE

1/30/13 Notification to The News-Herald – No February meeting
2/27/13 Notification to The News-Herald – No March meeting
3/27/13 Notification to The News-Herald – Meeting, April 9, 2013

CASE 2013-1

Joseph & Zeljka Cenin

2409 Pine Valley Drive – PPN 31A-017-D-00-006-0

request a variance to permit an existing house with 9' 3" right side setback. Section 1133.04(a)(7), Schedule 1133.04(a)(7) of the Codified Ordinances requires 15' minimum side setback (each side). The request is due to mitigating circumstances not known at the time of the building permit application and approvals.

Notice was mailed to property owners within 500 feet of said property. Legal notice was published in The News-Herald on March 30, 2013. Drawings were available for review in the lobby of City Hall.

Drawing reference: Site & Grading Plan, Sublot 5, Pine Valley Subdivision
"As Built" Certification, Drwg. dated 9/24/10 by Polaris
Stamped received in the WH Bldg. Dept. 4/8/13.

PRESENT: Zeljka Cenin
Brenda T. Bodnar, Attorney – A. Sirvaitis & Associates

Stated reason for variance request:

Circumstances unknown to the Celins resulted in their home being built approximately 9'3" away from the adjacent property. They accessed information on the Pine Valley Maplegrove Development through the website of a builder called Handcrafted Homes, Inc. They considered buying either S/L 5 or S/Lt 6. From Lake County Records they obtained legal descriptions, parcel sizes and maps. They learned the property was owned by Jadco Development Limited Partnership. They met with John DeChellis who is the owner of Jadco. On March 9, 2010 the Cenins sent a letter of intent and check to DeChellis to purchase Tract of Land, S/L 5 or S/L 6, stating that they would perform a physical inspection of the two lots and notify seller by 3/31/10 with their selection. They walked the properties using information on file with the County Recorder. They chose S/L 6 which County records showed was 1.2587 acres. At no time did Mr. DeChellis inform them that he was planning to do a lot split to reduce the size of S/L 6.

After he had taken their money, Mr. DeChellis applied for a lot line adjustment. The lot line change was approved by the Willoughby Hills Planning Commission on April 1, 2010. The result of the split was that S/L 6 was reduced in size from 1.2587 acres to 1.1707 acres. Mr. DeChellis then had his lawyer prepare a contract to sell S/L 6 to the Cenins. Unbeknownst to the Cenins that contract attached the new and unrecorded legal description for S/L 6. Mr. DeChellis did not inform the Cenins that they were purchasing a lot that was smaller in size than what they had agreed on. The Cenins paid for the lot and hired a builder to draw building plans.

They applied for a construction loan at which time they became aware that DeChellis had not deeded the property to them. In August Mr. DeChellis filed the first deed on record to show the lot size reduction. The Willoughby Hills Building Department approved plans based on original dimensions of the lot. After soil testing it was found that a great deal of S/L 6 was not buildable due to soil conditions. In order to build on S/L 6 the Cenins had to redraw the plans repositioning the structure. These new plans were drawn up and approved. The repositioning caused the home to be built closer to the sideline of the adjacent property. However no one was aware that sideline had been changed. This information came to light after the Cenins had moved into the home and the neighboring property applied for a building permit. The Cenins are before the Board to get the record in Willoughby Hills set straight. The Building Commissioner advised that this could be done through obtaining a variance from the City of Willoughby Hills.

Public Portion

No public present.

Public portion closed.

Board Comments

John Klements stated that it was his opinion that the City owes the Cenins an apology. The Cenins did everything according to the rules. In following the time line, this lot line was in front of various City officials multiple times and never came to the City's attention until now, when the neighboring property applied for approvals to build.

Chairman Cihula stated that this is the only body of the City that can remedy the situation.

MOTION: Mark Kotoch moved that the Board approve Case 2013-1 as amended and grant a variance to the property located at 2409 Pine Valley with a side setback of 11' on the southerly side due to special circumstances noted in the appeal. Ref: Drwg. dated 9/24/10 by Polaris-Revise Property Line 04-08-13 DRK.

Seconded by John Klements.

Roll call: Ayes unanimous

Motion passes 4/0.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

CHAIRMAN'S COMMENTS

None

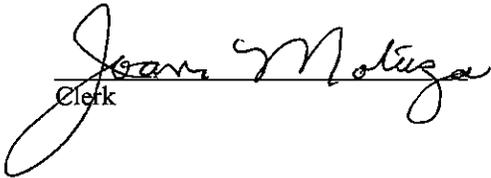
MOTION: Mark Kotoch moved to adjourn; seconded by Bob Bartolotta.
Voice vote: Ayes unanimous.
Motion passes 4/0.

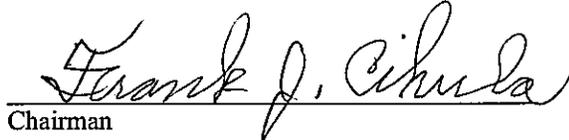
Meeting adjourned at 8:53 pm.

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.

All decisions of the Board of Building and Zoning Appeals are final within the City of Willoughby Hills. Any interested party may appeal the Board's decision to the Court of Common Pleas of Lake County, as provided for by Ohio Law.


Clerk


Chairman

Date Approved: August 13, 2013