

**MINUTES**  
**Board of Building and Zoning Appeals**  
**City of Willoughby Hills, Ohio**

April 13, 2010

**CALL TO ORDER:** 8:00 pm  
**PRESENT:** Chairman, Frank Cihula; Vice Chairman, John Klements  
Robert Bartolotta, Ron Caporossi, Mark Kotoch  
Clerk, Joan Motuza

Chairman Cihula introduced Robert J. Bartolotta who was appointed by Mayor Weger and sworn on January 21, 2010 for a five year term ending 2015.

**DISPOSITION OF MINUTES OF JANUARY 12, 2010**

**MOTION:** Mark Kotoch moved that the Board approve the minutes as submitted.  
Seconded by John Klements.  
Roll call: Ayes unanimous  
**Motion passes 5/0.**

**CORRESPONDENCE**

1/20/10 To Clerk of Council Savage - Notification of no February BZA meeting.  
2/22/10 To Clerk of Council Savage - Notification of no March BZA meeting.  
3/36/20 From Clerk of Council - Ordinance 2010-08, Adopted March 25, 2010.

**ORDINANCE 2010.08**

**AMENDING PART ELEVEN - PLANNING AND ZONING CODE, TITLE NINE- SIGNS, CHAPTER 1151 - SIGN REGULATIONS, SECTION 1151.05 - SIGNS IN NONRESIDENTIAL DISTRICTS, SECTION 1151.06 - PROHIBITED SIGNS AND CHAPTER 1103 - DEFINITIONS, SECTION 1103.02 DEFINITIONS, OF THE CODIFIED ORDINANCES OF THE CITY**

**Case 2010-1**

3/12/10 From PC/ABR Clerk Lloyd - Planning & Zoning Commission comments and recommendation re Case 2010-1.

**CASE 2010-1**

**August and Loretta Babuder**  
**2275 River Road**

requests a variance to construct an additional detached accessory building 30' x 40' on a 12.65 acre lot. The lot currently has 4 detached accessory buildings. Section 1133.10(g)(2) of the Codified Ordinances limits a single zoning lot to 2 accessory buildings.

Notice was mailed to property owners within 500 feet of said property. Legal notice was published in The News-Herald on April 3, 2010. Drawings were available for review in the lobby of City Hall.

PRESENT: August & Loretta Babuder

Drawing reference: Site Location Plan, dated 2/22/10, stamped received in the Building Department Feb 23 2010.  
Cold Storage Building Plans, stamped received in the Building Department Feb 19 2010.

Stated reason for variance request: This land was formerly leased by Warner Nurseries. During that time the old barn collapsed and was not rebuilt. Warner Nurseries is no longer leasing this property. Mr. Babuder's son who is attending Ohio State University and studying agriculture is using the land to grow nursery stock. Mr. Babuder obtained a demolition permit from our previous Building Inspector to remove the collapsed barn, however he stated that he was not informed that demolition would void any grandfather clause. He now would like to rebuild the barn as it is needed for storage of equipment and potted transplants. Mr. Babuder stated that the Planning Commission held a working session to address his request and that he received a favorable opinion from them. Due to topography of land the lower out buildings are not accessible during heavy snow. He will remove tents when access to the new building is available.

**The issue before this Board is not the size of the building but the number of buildings.**

A discussion of the grandfather provision was held. Upon questioning Mr. Babuder stated that the barn was "very down". Mr. Babuder was advised that when a building goes down it is no longer grandfathered, By law if a certain percentage of the building is removed the grandfather dies. Leaving the foundation does not meet the requirements for the grandfather clause. Chairman Cihula advised that Mr. Babuder's letter to the BZA explains other reasons that the BZA can use to consider granting a variance and that the Planning Commission has made a positive recommendation to the BZA. Mr. Babuder stated that this is a full-time farm and has an R1 agricultural zoning. The Board advised that the City does not have this zoning designation and Mr. Babuder needs to apply to the County for this designation. The Board questioned Mr. Babuder as to whether or not he was considering consolidating any of the buildings. He responded that he is not considering this at this time. Mr. Babuder stated that adding to the upper level buildings would decrease his flat land is not feasible.

**Public Portion:**

Joe Grebenc - 2265 River Road Neighbor next door to the proposed addition objects to the granting of the requested variance. He is not opposed to the construction of a new barn, but believes that the appellant should abide by the existing City accessory building ordinance for out buildings two (2) on a given lot. The property now has at least four (4) existing out buildings which are not very appealing. They have different types of siding, are partially painted, one has rolled roofing, two have patched up asphalt shingles, one has a metal roof. Two of the sheds have lean-to roofs built off of them. He sees no benefit regarding the existing buildings being left in place which would be five (5) accessory buildings and feels that doing so would set a dangerous precedence.

With regard to grandfathering, Mr. Grebenc stated that he noticed that the prints indicate that there was a building on the proposed site. He stated that he has lived there for 20 years and all he saw was a pile of rubble. Regarding historical value he believes the existing buildings could have been chicken coops. Regarding agricultural use, the proposed building appears to be on the most desirable agricultural location on the lot.

Last year Mr. Grebenc constructed a new garage. He wanted to build it closer to the property line but was advised by the Building Inspector that he would not get a variance as the BZA does not grant variances based on desire or convenience. Mr. Grebenc did not apply for a variance. He built his garage to meet the City's requirements.

The proposed building at 2275 could meet the City's ordinance. It would require the removal of the existing sheds. There would be no denial of land use or unnecessary hardship to the owner by requiring that the existing City Ordinances be adhered to. The request is the owner's wish and desire, which does not constitute a variance to the law. Mr. Grebenc feels that, at this time, the BZA has an opportunity to make a good decision.

Ongoing discussion between Mr. Grebenc and the Board continued.

Jim Michalski - Vice Chairman of the Planning Commission was invited by Chairman Cihula to provide comments from the Planning Commission workshop discussion. Mr. Michalski stated that a Planning Commission Workshop is for discussion and feedback. No final opinion is offered. No vote is taken. A 45 minute to 1 hour session was held with Mr. Babuder and the Commission and there was unanimous consensus that the Commission had no objections relating to anything, within its (Planning Commission's) jurisdiction, with what Mr. Babuder was planning to do. There was no discussion regarding removal of buildings, no discussion of potential issues with existing structures, no discussion regarding historical significance, no discussion of housing cars and equipment. What they understood and what they were told was that there was an existing barn there and that they (The Commission) felt he was replacing an existing barn in kind.

**Public Portion closed.**

In response to questions by the BZA, Mr. Babuder stated that he would be removing the two temporary tents as soon as he had a barn. He would clean up the place and house equipment. Neighboring homes will not see the barn. He is improving and will continue to improve existing buildings. It is not out of the question that he will build a larger barn.

Public Portion was reopened at 9:10pm and closed at 9:12pm in order to allow Mr. Grebenc to comment.

**MOTION:** Mark Kotoch moved that the Board approve Case 2010-1 as requested and grant a variance to the property located at 2275 River Road for a detached building of approximately 30' x 40' ( not to exceed the allowable square footage permitted by code for the size of the lot) that will exceed the Codified Ordinances which limit a single zoning lot to 2 accessory buildings. Due to the fact that the property is currently being used as agricultural/horticultural. Also that this is an ongoing business of over 50 years. With the following stipulations:

- Remove both tents once building is completed
- If a building is beyond repair, no buildings will be reconstructed in its place
- You will house all stored equipments that is outside now
- You will also improve the condition of existing buildings

The Planning Commission's opinion was taken into consideration in coming to our conclusion

Motion seconded by John Klements.

Roll call: Ayes unanimous.  
**Motion passes 5/0.**

Appellant was advised to contact the Building & Zoning Inspector to obtain architectural approval and required permits.

**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.**

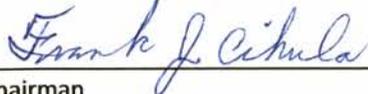
Meeting adjourned at 9:42 pm.

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: September 14, 2010