

CITY OF HURON
BOARD OF BUILDING AND ZONING APPEALS
October 11, 2021 Regular Meeting – 6:30p.m.

Chairman Frank Kath called the regular meeting to order at 6:30 p.m. on Monday October 11, 2021, in the Council Chambers of the City Building, 417 Main Street Huron, Ohio. Members in attendance: JoAnn Boston, Jenine von Krumreig, and Lisa Brady. Members absent: Jim Shaffer.

Also in attendance: Erik Engle, Planning & Zoning Manager and Christine Gibboney, Zoning Administrative Assistant.

Mr. Kath reviewed the format of the meeting with those in attendance and asked that cell phones be turned off.

Swearing In: Mr. Kath swore in those in attendance wishing to testify before the Board on the case appearing on the agenda.

Approval of Minutes (7-12-21, 7-26-21, 8-9-21)

Motion by Ms. Brady to approve the minutes of 7-12-21, 7-26-21 and 8-9-21 as printed and received. Motion seconded by Ms. Boston. All in favor, motion passes and minutes approved.

Verification of Required Notice Period

In response to a question by Mr. Kath, Mr. Engle confirmed that notices were mailed to all affected property owners within 100' of the properties appearing on the agenda on September 30, 2021.

New Business

50 Cleveland Road E -Parcel # 42-00926.003 Front and Side Setback Variances, Use Variance for commercial signage.

Project description from summary:

The applicant, Brady Sign Company, has submitted an application on behalf of their client, Simply Better Realty, 50 Cleveland Rd. E, for a single-sided monument sign consisting of a brick base with an electronic message center and LED lit cabinet on top of the sign.

As proposed, the signage would require three variances:

- 1) *Front Setback from R-O-W (Section 1129.05 (d)): proposing 2' setback, code requires a min. 7' setback. A 5' front yard setback from the R-O-W would be required.*
- 2) *Side Yard Setback (1129.05 (d)): proposing 2' setback, code requires a min. of 10' setback. An 8' side yard setback variance would be required. Note: The property is comprised of two separate parcels (refer to site plan). The location of the proposed sign is on the vacant parcel adjacent to the primary structure (42-00926.000). The property owner owns both of the lots.*
- 3) *Sign Illumination/Digital Message/Changing Display: Several sections of the signage code pertain to the regulation of illumination as well as specific prohibition of moving/changing signage.*
 - *1129.05 (6) (c) Under no circumstances shall any type of on-premises sign contain a message or display that appears to flash, undulate, pulse, move, scroll,....or display any other comparable movements as to distract drivers or pedestrians.*
 - *1129.06 (k) No flashing or moving parts shall be permitted for any sign or advertising display within the city.*

- 1129.07 (1) (f) Prohibits flashing, moving, rotating intermittently lighted signs or other mechanically rotated or eye-catching devices.
- 1129.07 (2) (d) Sign visible from sight lines along streets shall not contain symbols or words. Applicant has referenced the sign will be used for brand recognition and to post new real estate listings.

Mr. Kath called the public hearing to order at 6:32p.m. Mr. Engle reviewed the details of the monument signage being proposed by a new real estate company and the variances required as proposed. He referenced the photos provided with the application. Mr. Engle reviewed the variances required: front and side setback variances and use variance required since the code does not allow for flashing, moving signage.

Applicant/Owner Statements

Ryan Brady of Brady Signs reviewed the application, noting the existing signage of Lighthouse Realty would be removed and reviewed the specifications of the proposed new monument signage. He explained this is a digital sign with a static cabinet top that would be LED lit. He advised the digital sign would have an auto dimming feature for brightness, is programable, and can be customized as to hours on/off and how messages appear. He referenced the setback variances, explaining that the front of the building is very close to SR 6 and the side setback variance is due to the property being comprised of two parcels.

Ms. Brady inquired about plans for scrolling messages. Mr. Brady explained in his opinion scrolling doesn't work, that they prefer customers use signage that just changes instantaneously; simultaneous changing from one frame to the next. In response to questions from members as to what type of sign this is, Mr. Brady noted this is an LED message board and it does have the ability for animated graphics, but added that the functions can be limited. He noted the client wants to have real estate listings on the board.

Ms. von Krumreig stated she does not see the hardship and commented she finds it hard to believe the client was unaware of the zoning regulations since the seller has been before the BZA board many times. She noted her concern with the changing messaging in respect to safety for people in the bike lane. Mr. Kath commented the code is very clear that this type of signage is not allowed. Ms. Brady commented about past decisions by the board that had included conditions relative to this type of signage.

Ms. Boston commented that this is a use permit and completely different in her opinion, expressing concern over the BZA board making determination on such a use variance, noting that she does not believe it is the BZA's position to decide on use variances as she believes that this is a City Council decision. She commented the client understands this as it was less than a year ago that they were before the board and noted that she stated the same thing at that time. She explained that if one wants to change the use of the zoning codes, then City Council would have to change how that specific geographic is designated, adding that it is Council that decides on property use for various parcels. She noted the BZA members job is to support what is in place and to review applications for unusual or mitigating circumstances for a piece of property. She noted she is more open to review the area variances for this sign but she is not willing to agree to the use variance. Ms. von Krumreig commented that when the BZA tried, in the case that Ms. Boston was talking about, the BZA board was advised they were not legally allowed to consider it.

Mr. Brady asked for clarification, stating members are speaking to the use of the property- how is that reflecting the sign aspect? Ms. Boston asked Mr. Engle to reply. Mr. Engle commented that this is a stretch with regards to "use" as you have to think more abstractly. He referred to the application instructions, with regard to unnecessary hardship, enabling act and special conditions that go along with how you use your property. He stated that in this case, the BZA is considering the idea of the flashing/changing sign as the "use" on this piece of property. He noted the "use" is a little more fine-tuned, not whether the sign itself is allowed, as signage is allowed- it is just the changing/moving aspect that is not.

Ms. Boston addressed Mr. Brady referencing his question is a difficult one. Ms. Boston added that Mr. Brady's client was here before the BZA about a year ago and recapped the issue of use variances versus area variances, noting City Council sets regulations in place and where development can occur. She added, in this commercial zone there is specific criteria under how and what signs are allowed. She explained the process the board used at the time the client came before them, noting there are 10 key points that the board has to apply to see if an applicant meets the conditions of the hardships. She added that in that case, after reconsidering it, she believed they definitely had a hardship and the BZA wanted to change the use, but the BZA was told that they did not have the legal right to do that. She advised she would be willing to consider and would support the setback variances for the proposed signage, but she is not the person to consider changing the zoning laws.

Mr. Brady asked if the sign was not an LED screen, if it were a reader board track sign, the use consideration would not be an issue? He asked if the discussion about use is just because of the digital component. Mr. Kath replied yes, it is the digital component, adding that he agrees with what members are saying regarding the use. He noted his concern for setting precedence adding that the board would be hard put to deny others who may ask the same all down the street. Mr. Kath and other members referenced the Route 2 Corridor and Stride Mobility digital signage case, stating that was a different situation. Ms. Boston noted she struggled with that case too and members referenced the conditions they added to the Stride Mobility sign.

Ms. von Krumreig commented she does not see a hardship at all, advising this is not what the BZA is here for and Mr. Brady would need to go to City Council. Mr. Kath asked Mr. Engle if this is the case. Mr. Engle replied with regard to use pieces, the city does allow for signs in this area, it is clear what is prohibited and so yes from that standpoint.

Mr. Brady noted when he reads "flashing" in the code, it doesn't mean the type of sign they are proposing. He added that perhaps it is an issue of outdated code language that may need to be addressed. Members agreed that may be correct in that the code may need to be updated, but this would be a City Council function.

Mr. Engle noted the sign itself is allowed within the zoning district without the moving/changing component. Members noted if the proposed sign did not contain the moving aspect, they would only be considering the setback variances. In response to a question by Mr. Kath about the size of the sign, Mr. Engle noted the size of the size is in compliance with the size.

Ms. Boston noted she is pro marketing and supports local business, but members have to act within the purpose of the BZA. Mr. Brady noted he is just confused if this is or isn't the board to ask. Ms. von Krumreig replied it is not and referenced the previous case. Ms. Brady asked about the possibility of the image remaining the same all day and only changing overnight. Members discussed this option.

Ms. Boston noted the BZA needs more guidance. Mr. Engle noted he is working with legal now relative to signage. A brief discussion ensued about the need to amend the code. Ms. Brady asked if the case should be tabled until there is more clarity on the matter. Mr. Kath referenced the 45 period from the date of application and noted the board may need to hold a remaining special meeting; explaining that the applicant would need to acknowledge the waiving of the 45-day period.

Mr. Kath asked the applicant if the board offered to table the case to get more information, you would need to acknowledge on the record that you are good with that as it may exceed the 45 period to act. Mr. Ryan said yes, as it sounds like there is really no other option at this point as it remaining is the only path forward.

With no further discussion, Mr. Kath closed the public hearing at 6:55pm.

Motion by Ms. von Krumreig to table the hearing on the case of 50 Cleveland East and require verbal confirmation from the applicant that they are waiving the 45-day hearing. Motion seconded by Ms. Boston. Roll call on the motion:

Yeas: Boston, Kath, Brady, von Krumreig (4)

Nays: (0)

Abstain: (0)

With three or more votes in the affirmative, the motion passes, and case tabled.

107 North Port Lane, Parcel 42-00666.011- Rear Yard Setback Variance for a deck.

Project description from summary:

The applicant, Valjean Thaxton, submitted a zoning and building application for a proposed rear yard deck to be attached to the rear of her new home at 107 North Port Lane. Upon review of the application, it was noted the rear yard setback was not compliant with the R-2 PUD setbacks. The applicant was contacted and advised of the setback regulations and provided the opportunity to revise the plans if desired. Ms. Thaxton chose to submit a BZA application for consideration since construction had already begun without formal zoning approval from staff.

The North Port PUD Declarations state the following setbacks:

*Front Yard Setback 25'
Side Setbacks 6'
Rear Yard Setback 15'*

As proposed, the deck would be 8' from the rear property line which would require a 7' rear yard setback variance. As a note, you will notice the east side setback is 5' – this is allowable as a 2' side setback variance was granted on 3-18-21 when the home was constructed. The original plans for the home that were permitted with the approval of the side setback variance did not contain a deck.

Mr. Kath called the public hearing to order at 6:57pm. Mr. Engle referenced the application and location of the proposed rear deck, noting the rear yard setback was not compliant with the

North Port PUD regulations for setbacks. He explained that as proposed, a 7' rear yard setback variance is required.

Applicant/Owner Statements

Ms. Thaxton explained the house is on a crawlspace and wanted to extend a deck out from the rear sliders that steps down into the yard. She noted the deck will be aesthetically pleasing and will match the exterior of the house. She also noted that the rear yard faces Zion Lutheran Church. Mr. Kath noted that footers were already in the ground. Ms. Thaxton confirmed that they did begin the project. Ms. Boston asked if the PUD requires approval of the HOA board. Ms. Thaxton states the board advised they would not allow a deck with a roof. A brief discussion ensued about whether or not the BZA should include such a reference in the motion. Members discussed the parcel being unique as it backs up the church and is against the retention pond. Mr. Engle advised that the BZA is not required to incorporate neighborhood HOA rules when making a motion. Members asked if there were any statements/inquiries from neighbors, Mr. Engle advised there were none.

With no further discussion, Mr. Kath closed the public hearing at 7:03pm.

**Motion by Ms. von Krumreig to approve the 7' rear yard setback variance as submitted.
Motion seconded by Ms. Boston. Roll call on the motion:**

Yeas: Boston, Kath, Brady, von Krumreig (4)

Nays: (0)

Abstain: (0)

With three or more votes in the affirmative, the motion passes, and 7' rear yard setback variance approved as submitted.

201 Dayton Ave, Parcel 45-00345.000 Rear and Side Yard Setback Variance for a sunroom.

Project description from summary: The home was constructed in 1950 predating the current zoning requirements. All setbacks of the existing structure are non-conforming due to this. The house currently features an existing deck. The homeowners would like to use the existing footprint to construct an addition to be used as a sunroom. The size of the addition is 144 sf (12'x12') The new addition would be roughly 15' from the rear lot line and 5'-5" from the side. Pursuant to Section 1123.01 R-1 One Family Residence Zone, the rear setback required is 30'; the least width for a side setback is 7'. As proposed, the following variance are required: Rear setback variance - 15'-0" & Side setback variance - 1'-7"

Mr. Kath called the public hearing to order at 7:04pm. Mr. Engle reviewed the application, referencing the home was built in 1950 and there are two separate parcels on the property. He explained the home is pre-existing, non-conforming and the owner is staying within the same footprint. He reviewed the existing setbacks and required variances of 15' for the rear yard setback variance and 1'-7" for the side setback variance.

Applicant/Owner Statements

Jim Orr of Dover Home Remodelers. Mr. Orr noted the existing deck was in disrepair and owners want to use the space year-round. He noted the yard is quite small and the garage is located on a separate parcel. Mr. Kath asked if the proposed sunroom would be the same dimension as the deck that will be removed. Mr. Orr confirmed this was correct. Ms. von Krumreig noted she sees no one being affected by the proposed addition as it does not interfere and she would have no objections. Mr. Kath referenced past action when an applicant has stayed within the existing footprint.

Members asked if there were any inquires/statements from neighbors, Mr. Engle replied there were none.

With no further discussion, Mr. Kath closed the public hearing at 7:09pm.

Motion by Ms. Brady to approve of the 15’ rear yard setback variance and the 1’-7” side yard setback variance as submitted. Motion seconded by Ms. Boston. Roll call on the motion:

Yeas: Boston, Kath, Brady, von Krumreig (4)

Nays: (0)

Abstain: (0)

With three or more votes in the affirmative, the motion passes, and the 15’ rear yard setback variance and the 1’-7” side yard setback variance approved as submitted.

1003 Beachside Lane Parcel 42-00335.000 Rear & Side Yard Variances for a deck.

Project description from summary: The home along with the original decking would be considered pre-existing non-conforming with regard to front, side and rear setbacks. The home was built in the 1960’ per the Auditor’s site.

That being said, any proposed changes to the decks and deck additions would have required approval by the BZA before a permit could have been issued.

The new deck addition extends into the rear yard 10’ from the house, creating a 16’ rear yard setback. Section 1123.01 (e) requires a rear yard setback of 30’, therefore a 14’ rear yard variance would be required.

In addition, the existing side yard decks are 5’ from the east side yard and 3’ from the west side yard. Section 1123.01 (e) requires a total of 20’ side setbacks (8’ minimum) for a 2-story home. Since these decks were replaced, albeit in the same footprint, this would also require side yard setback variances

As constructed, the deck addition and deck replacements would require the following variances:

- *14’ rear yard setback variance*
- *7’ east side yard setback variance*
- *5’ west side yard setback variance*

Mr. Kath called the public hearing to order at 7:10pm. Mr. Engle explained the home has undergone renovations and noted the home is pre-existing nonconforming with the rear yard at a 26' setback. He noted the existing decks were 5' from the east side yard and 3' from the west side yard and noted the requirement is 20' total. He explained the owner replaced the side decks and added a new deck section to connect the two. The new deck section is at a 16' rear yard setback and the requirement is 30', therefore a 14' rear yard setback variance is required.

Applicant/Owner Statements

Joe Fraley, 160 Merywen Circle, Granville, OH. Mr. Fraley explained he bought the home to renovate. He explained the decks needed replacement and the landscaping was destroyed in the storm. He explained his contractor suggested adding a deck section at the sliders rather than the landscaping. He referenced the enhanced value the improvements have made to the home. He noted that the improvements will not affect neighbors as the decks on the sides were pre-existing and the new portion joins the two decks. Mr. Engle distributed images of the decks. Mr. Kath noted that no one is behind the deck as it is beachfront. Members asked if there were any inquiries/statements from neighbors, Mr. Engle noted there were none.

With no further discussion, Mr. Kath closed the public hearing at 7:16pm.

Motion by Ms. Boston to approve the 14' rear yard setback variance, 7' east side yard setback variance and 5' west side yard setback variance as submitted. Motion seconded by Ms. von Krumreig. Roll call on the motion:

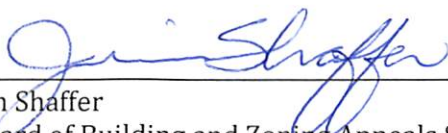
**Yeas: Boston, Kath, Brady, von Krumreig (4)
Nays: (0)
Abstain: (0)**

With three or more votes in the affirmative, the motion passes, and the (3) variances approved as submitted.

Staff Report

Mr. Engle advised he is working on amendments to the sign ordinances and anticipates a draft in a month.

With no further business, motion by Ms. Boston to adjourn. Motion seconded by Ms. Brady. All in favor, meeting adjourned at 7:17p.m.



Jim Shaffer
Board of Building and Zoning Appeals Secretary

ADOPTED: 11/8/2021

JS/cmjg