

**BOARD OF ZONING APPEALS
CITY OF NORTH OLMSTED
MINUTES OF SEPTEMBER 3, 2009**

ROLL CALL

Mrs. Diver called the meeting to order at 7:30 pm in Council Chambers.

Present: Maureen Diver, Nancy Sergi, Laura Bellido, Jennifer Rudolph, Alfredo Lopez

Staff: Assistant Law Director Bryan O'Malley, Assistant Building Commissioner Dale Mitchell, Clerk of Commissions Donna Rote

REVIEW AND CORRECTION OF MINUTES

Ms. Rudolph moved, seconded by Mr. Lopez, to approve the August 6, 2009 Board of Zoning Appeals minutes which was unanimously, approved 5-0.

RESIDENTIAL APPEALS AND REQUESTS:

Ann Scullin; 4108 Brendon Lane:

Request for variance (1123.12). Proposal consists of replacing existing sunroom and the following variance is required: A 6 foot rear yard variance for residence to close to rear property line; code requires 50' and 44' is shown which is in violation of section 1135.08(a).

Mr. David Young the Contractor and Mrs. Scullin the homeowner were sworn in. Mrs. Scullin said that the existing sunroom was built in 1965, the roof has started to cave in, the sides are pulling away from the house and the cement flooring is cracked and also pulling away from the homes foundation. Mr. Young said the room was hazardous, non-functional and needed to be replaced, the new room is 21 x 12 feet which will lend itself to being more functional. Mr. Mitchell said the building department had no objections to the request as it would be a three season room and only 3 feet larger than the original sunroom. Ms. Rudolph said the southern side of the yard is fenced, the existing enclosure is in poor condition, the additional 3 feet is not substantial and the new sunroom would enhance the character of the neighborhood and allow the owner to fully utilize the room. Mr. Lopez said he agreed with Ms. Rudolph but felt it could be constructed to be the same size which would not require a variance. Mrs. Bellido said as the home was being enhanced, the room will provide a bit of privacy to the owner and the character of the neighborhood would not be affected so she did not object. Mrs. Sergi and Mrs. Diver agreed the variance was not substantial and felt the spirit and intent of the zoning code would be upheld granting the variance.

Ms. Rudolph moved, seconded by Mrs. Sergi, to grant Ann Scullin of 4108 Brendon Lane a 6 ft rear yard variance for residence to close to rear property line; code requires 50' & 44' is shown which is in violation of section 1135.08(a) and was unanimously approved 5-0.

Ross & Susan Staffeld; 4638 Georgette Ave:

Request for variance (1123.12). Proposal consists of a shed and the following variance is required; A 40 square foot variance for shed larger than code allows; code permits 120 sq ft and 160 sq ft is shown which is in violation of section 1135.02 (d)(1).

Mr. & Mrs. Staffeld the homeowners were sworn in. Mrs. Staffeld said the recently purchased family home has required a lot of upgrading and has a single car garage. They are landlords to three additional properties in town which requires additional yard and mechanical equipment and a single car garage is not enough storage area. They have to store items on the back patio which also needs to be replaced. The code permits 120 square feet for a shed and they would like to construct a 160 square foot shed which provides an additional 4 feet to accommodate yard and mechanical equipment. They have two cars and neither car can fit into the garage that can not be enlarged. Photos of existing conditions, type of shed and letters from abutting neighbors were submitted stating they had no objections to the applicants shed. The back porch needs to be replaced and the items stored outdoors moved indoors to improve the aesthetics of the yard. Mr. Mitchell said the building department did not object to the homeowners requesting an additional 40 square feet of storage. He asked if the three rental properties owned in North Olmsted were registered as rental properties and Mrs. Staffeld said all three rentals were registered with the building department. Mr. O'Malley advised the board to include the style of shed in their motion if it was their intent to grant the variance. Mrs. Bellido said the pipe being laid out to show the dimensions and location of the shed helped her to visualize the amount of space needed and the yard looks to accommodate the shed. Mrs. Sergi agreed the shed could fit the lot and due to having a one car garage which can not be enlarged she did not object to the variance. The style of shed will enhance the yard and will not adversely affect the character of the neighborhood. Mr. Lopez voiced his concern over granting variances as there are other homes in the neighborhood with sheds which looks unsightly and adversely affects the appearance of the entire neighborhood. Mrs. Sergi felt that the size of the lot and garage warranted the size of shed being requested as the owners don't really have any other option as the home nor the garage can be expanded. Mrs. Diver said the owners being landlords is outside the boards consideration as that is a business matter which could be conducted in a retail district. Mrs. Rudolph said she understood the need to limit variances but the owner's predicament can not be resolved without a variance. As a homeowner with a single car garage she understands the need for a shed because if a car is parked in the garage nothing else fits including standard yard tools which can not be stored indoors.

Ms. Rudolph moved, seconded by Mrs. Bellido, to grant Ross & Susan Staffeld of 4638 Georgette Ave a 40 square foot variance for shed larger than code allows; code permits 120 sq ft and 160 sq ft is shown which is in violation of section 1135.02 (d)(1). Roll call; Sergi, Bellido, Rudolph – yes, Diver, Lopez –no, the variance was granted 3-2.

Roger James; 24908 Mitchell Road:

Request for variance (1123.12). Proposal consists of a screened in room and the following variance is required: A 16 foot rear yard variance for residence too close to rear property line; code requires 50 ft and 34 ft is shown which is in violation of section 1135.08 (a)

- A special permit to add to a non-conforming building 1165.02 (b).
- A variance from Section 1165.02 as existing rear yard setback is 46 ft and will decrease to 34 ft.

Mr. James the homeowner and Mr. Koly with Champion Windows were sworn in. Mr. James said he would like to have his existing concrete slab roofed and screened in so he can enjoy his backyard. Mr. Koly said the roof and screened walls would be no larger than the existing slab and the backyard is enclosed with a 6 foot high privacy fence. The existing slab which has partial

footers may meet building codes and not need to be replaced. Mrs. Diver noted that a special permit was required as the existing rear yard was only 46 feet deep. Mr. Mitchell said the existing 46 foot setback is preexisting and the request is to have a single season porch. He believes that the screened in porch would be aesthetically pleasing and enhance the use for the owner. Mrs. Sergi questioned if the rear lot coverage was exceeded and Mr. Mitchell said it was not. Mr. O'Malley reviewed chapter 1165.02 as it pertains to non-conforming structures and advised the board to address the special permit first. Mrs. Diver read aloud the standards for a special permit to add to a non-conforming home and board members felt no adverse affects would be created by granting the special permit.

Mrs. Sergi moved, seconded by Ms. Rudolph, to grant Roger James of 24908 Mitchell Road A special permit to add to a non-conforming building 1165.02 (b), roll call on the motion; Diver, Sergi, Bellido, Rudolph – yes, Lopez – no, the special permit was granted 4-1.

Mr. Lopez said that he understood that the applicant wants to have a screened in porch but the porch only increases the non-conformances of the home and wanting your porch screened in is not a hardship. Once the variance is granted the screened in porch can become an addition unless the condition is placed to not allow anything but screening. Mrs. Diver felt that since the patio was just being covered and screens added to enable the owner the use of his backyard she did not object. All the homes in the development were built non-conforming which doesn't allow any owner the opportunity to enhance or fully utilize their lot without variances. Ms. Rudolph said each request should be looked at individually and the slab is preexisting, the yard is fenced in and the character of the neighborhood would not be affected. All homeowners should be offered the opportunity to fully utilize their backyards and unfortunately the developer hindered all the homeowners in the development from having that opportunity. The request is not significant and if the garage was placed differently in the front the home would not be non-conforming. There is no other method than a variance to do anything to the home. Mrs. Bellido felt that the spirit and intent of the code would be upheld granting the variance. The standards are a general standard applied to the entire city and unfortunately the majority of the lots in the city do not comply with the existing zoning codes. Granting the variance is upholding the spirit of the code as long as it remains a screened in porch. Mrs. Diver said all the lots in the area are very small and there is no other method than a variance to enhance the home.

Ms. Rudolph moved, seconded by Mrs. Sergi, to grant Roger James of 24908 Mitchell Road the following variances: 1. A 16 foot rear yard variance for residence too close to rear property line; code requires 50 ft and 34 ft is shown which is in violation of section 1135.08 (a). 2. A variance from Section 1165.02 as existing rear yard setback is 46 ft and will decrease to 34 ft. roll call; Diver, Sergi, Bellido, Rudolph – yes, Lopez –no, variances granted 4-1.

NON-RESIDENTIAL APPEALS AND REQUESTS:

CMS09-07 LaQuinta Inn & Suites; 25105 Country Club Blvd:

Request for variance (1123.12). Proposal consists of signage and the following variances are required:

1. A 1 foot 7 inch variance for a wall sign higher than allowed (north elevation); code permits 4 ft and 5 ft 7 inches are shown, section 1163.28 (c)

2. A 1 foot 7 inch variance for a wall sign higher than allowed (south elevation); code permits 4 ft and 5 ft 7 inches are shown, section 1163.28 (c)
3. A 1 foot 7 inch variance for a wall sign higher than allowed (east elevation); code permits 4 ft and 5 ft 7 inches are shown, section 1163.28 (c)
4. A variance for 1 additional wall sign; code permits 2 and 3 are shown, section 1163.28(a)

Mr. Phillips with LaQuinta Inn was sworn in and said the request was the final step in the conversion of transforming the Hampton Inn into a LaQuinta Suite. The previous owner's signs are being replaced with smaller signs. They have chosen the smallest size sign which would give them the visibility needed and require the least amount of variances. The wall signs chosen also fit into the keystones on the building which matches the curvature of the signs. Ms. Rudolph questioned if the signs would be illuminated all night including the south elevation which abuts residents and Mr. Phillips said that a 6 foot board on board fence was erected and evergreens planted to ensure visibility was limited. The signs will be placed on the north, south and east side of the building facing roads and are 51 square feet smaller than the existing wall signs. Ms. Sergi asked if the non-conforming pole signs would be removed or refaced and Mr. Phillips said they were removed and would be replaced with conforming ground signs. Mr. Mitchell reviewed that the applicants had been working with the building department for several months as they have been remodeling the entire building both inside and out. He commended the applicant for their efforts of complying with building codes and meeting PDC requests. The building department has no objections to the variances being requested as the square footage has been decreased and all three sides' front major roads. Mr. O'Malley said many commercial applications which have large setbacks from the street and front more than one road often request variances to allow additional or taller signs. The applicants are requesting a minimal size variance for each wall sign and consideration should be given as the applicants are removing non-conforming pole signs voluntarily. Mrs. Sergi said that the building fronts three streets; Country Club, Great Northern and I-480 and next to a Mall so all three wall signs are warranted. The size requested is reasonable considering the setbacks from the roads. Ms. Rudolph said she does not object to the request due to the sever setback. She felt the board should make a recommendation to Council that they look at creating a grid such as that which governs sheds as the size and setbacks should be taken into consideration as one size does not fit all, hence the numerous variances pertaining to signage the board has to deal with. Mr. Lopez said he did not object to the request as the size fits the aesthetics of the building design and the changes enhance the entire area. Mrs. Diver and Mrs. Bellido both voiced their agreements that the variances were minimal and everyone would benefit from the improvements being made.

Mrs. Sergi moved, seconded by Mr. Lopez, to grant CMS09-07 LaQuinta Inn & Suites of 25105 Country Club Blvd the following variances;

- 1. A 1 foot 7 inch variance for a wall sign higher than allowed (north elevation); code permits 4 ft and 5 ft 7 inches are shown, section 1163.28 (c)**
 - 2. A 1 foot 7 inch variance for a wall sign higher than allowed (south elevation); code permits 4 ft and 5 ft 7 inches are shown, section 1163.28 (c)**
 - 3. A 1 foot 7 inch variance for a wall sign higher than allowed (east elevation); code permits 4 ft and 5 ft 7 inches are shown, section 1163.28 (c)**
 - 4. A variance for 1 additional wall sign; code permits 2 and 3 are shown, section 1163.28(a)**
- Which was unanimously approved 5-0.**

A brief discussion ensued regarding the existing directional sign which the board felt should be allowed to be refaced as the exit is right turn only and without the sign could be hazardous to vehicles leaving the site. Mr. Mitchell suggested the applicant contact his office to discuss the issue and Mr. Phillips said he would work with the building department to ensure the vehicles exiting the site are aware of the right turn only.

Powerhouse Gym; 27336 Lorain Road:

Request for variance (1123.12). Proposal consists of an additional sign and the following variances are required:

1. A variance for 1 additional wall sign; code permits 1 and 2 are shown, section 1163.28 (a)
2. A 1 foot variance for a wall sign higher than allowed; code permits 4 ft and 5 ft is shown, section (1163.28 (c))

Mr. Schramm with Schramm Signs came forward and advised that the gym owner was out of town and his application included a letter from the landlord. Mrs. Diver read aloud the landlord's letter noting the letter approved the request provided it met local municipal requirements and then swore in the representative. Mr. Schramm said the owner of the gym requested an existing sign design be used in North Olmsted which did not meet code. Therefore the Powerhouse sign was decreased to 4' x 25' and the logo was separated from the sign to get a sign installed for the opening. The logo is a second wall sign which is not allowed but is required by the franchise to be on the building. The site has a large setback and the logo is only 30 sq ft and can not be reduced any further. City codes allow 1 sq ft of signage for every 100 sq ft of frontage then sets the maximum square footage for a sign to 100 square feet. Therefore although they have 250 sq ft of frontage they are only allowed 100 sq ft not the 130 sq ft they're showing. The only section of the strip center not being occupied by the gym is the existing Weight Watchers and Pizza shop. Mr. Mitchell said the existing sign meets code and if only two spaces are not being occupied by the applicant their frontage may be larger than 250 sq ft. The owner requests to place the logo on the building and states they are required by the franchise to have it but no letter from the franchise has been received. He noted the plaza owner's efforts to work with the city to address property maintenance issues at the site. Mr. Schramm said the front façade was quite large and could accommodate the logo and still look aesthetically pleasing and balance the entrance. Mrs. Sergi said if the logo was reduced to a 4 ft height and placed along the side of the existing sign the sign would be less than 130 sq ft and would meet code and Mr. Mitchell said it would meet code but the applicant wants the logo above the existing sign. Ms. Rudolph noted that city codes prohibited any one wall sign from being more than 100 sq ft so the logo could not be placed along side or above the existing sign without a variance. Mrs. Sergi said the gym owner and property owners should be present as the landlord's letter states he approves the sign as long as it meets code and what is being requested does not. Mr. O'Malley said that the board could not assume that there would never be another business in the strip center. The board under the rules can table the matter to have the owner and tenant present if they wish. Mrs. Diver asked if the members wished to table the matter to have the owner and tenant present and all members voiced they felt they should be present. Ms. Rudolph noted tabling the matter would not impede the owners business as there was a ground and wall sign currently in place.

Ms. Rudolph moved, seconded by Mrs. Sergi, to table Powerhouse Gym of 27336 Lorain Road until the owner/landlord and gym owner are present which was unanimously approved 5-0.

Mr. Schramm said the property owner was rarely in town and asked if they could submit a letter from the property owner stating they did not object to the variance and have the business owner present to address the board. Mrs. Sergi said the board wants to make sure that the property owner is aware that the one business may be using any future tenant's signage as the board will not grant any further variances for the site therefore both should be present.

COMMUNICATIONS

Order and Finding Form:

CMS09-05 WEA Great Northern Mall of 4954 Great Northern Mall

Mrs. Sergi moved, seconded by Mrs. Bellido, to adopt the Order and Finding Form for CMS09-05 WEA Great Northern Mall of 4954 Great Northern Mall as written which was unanimously approved 5-0.

Revised Rules and Regulation and BZA Application

Board members reviewed each proposed modification starting at section 1. Ms. Rudolph felt that the owner's prior written consent should be added to the application. A brief discussion pertaining to providing BZA applicants a pink slip stating owners must be present ensued but the majority of board members felt it was the applicant's responsibility to read the application and make sure the owner is present. A brief discussion pertaining to requiring recommendations by staff or other board and commissions being required to be included in members packets or received one week prior to the meeting. Discussions regarding board members refraining from verbal discussions of any type with property owners when visiting scheduled sites were also addressed.

Mrs. Sergi and Mrs. Diver voiced that they preferred the old method of notices which showed the abutting owner's addresses as each cases coversheet and the clerk advised that notices were now required to be released on postcards to keep postage costs to a minimum.

ADJOURNMENT

The meeting adjourned at 9:30 pm.

Maureen Diver, Chair

Donna Rote, Clerk of Commissions

Approved:
