

**BOARD OF ZONING APPEALS
CITY OF NORTH OLMSTED
MEETING MINUTES OF APRIL 1, 2010**

ROLL CALL

Ms. Rudolph called the meeting to order at 7:30 p.m. in Council Chambers.

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

Absent: Nancy Sergi

Staff: Law Director Michael Gareau Jr., Planning Director Kimberly Wenger, Building Commissioner Dale Mitchell, Clerk of Commissions Donna Rote

REVIEW AND CORRECTION OF MINUTES

Mrs. Diver moved, seconded by Mr. Lopez, to approve the March 11, 2010 minutes which was approved 4-0.

NON-RESIDENTIAL APPEALS AND REQUESTS

CMS10-07: Fish Furniture; 23770 Lorain Road:

- Request for a special permit to add to a non-conforming building, Section 1165.02(b)
- Request for variance (1123.11). Proposal consists of a building addition; the following variances are requested:
 1. A 20% variance for excessive lot coverage; code permits a maximum of 25%; applicant shows 45%, Section 1139.05.
 2. A variance for 34 parking spaces; code requires 114 parking spaces; applicant shows 80 parking spaces, Section 1161.05.
 3. A variance to alter, enlarge, or add to a non-conforming building; code requires addition to comply with setback, yard coverage and height requirements, applicant shows addition exceeds lot coverage, Section 1165.02(b)(1).

Dan Barney with Arkinetics was sworn in and said Fish Furniture wants to expand their building to accommodate a mattress store. The addition will be two stories which will match up to the northwest corner of the existing building and will complete the third and final phase of the development. The site is an irregular shape lot, fairly small and limits development possibilities. The property to the west has an easement for 35 parking spaces, Fish has 45 spaces and they are required to have a total of 114 spaces. They have never had to use the parking on the neighboring site. During their busiest time they use about 30 spaces. The lot currently is 36% developed and code allows 25%; the addition will increase lot coverage to 45%. There is landscaping being added along the north to provide additional buffering and the existing fence will be maintained. The lot consolidation process has been completed and a new Mylar will be submitted and recorded. Mrs. Diver felt areas of the rear fence could be fixed or replaced and Mr. Barney said any damaged fencing would be fixed or replaced.

Mr. Mitchell said he would address property maintenance concerns and explained the required variances. Ms. Wenger said the building originated from two residential properties being

combined to create a commercial building that is nonconforming which creates the need for a special permit. The addition will meet setback requirements, the use is a quiet use which will not create an adverse impact to the neighborhood and additional parking is not warranted. The site improvements and storm water drainage are benefits of the project. Mr. Gareau said the special permit would be forwarded to City Council for their review prior to any permits being issued.

Mrs. Diver said increasing lot coverage by 9% wasn't significant and did not object to less parking to add green space. Mr. Lopez said the addition seems significant but will be tucked behind the building and not be visible. The use of the site will not increase parking so he does not object to the variances. The site is being cleaned up and the retention will help alleviate any water issues. Mrs. Bellido felt the addition and landscaping would enhance the area. Ms. Rudolph said as the lots were first residential then zoned retail and redeveloped. There is no other option for the applicant other than moving their business therefore she does not object to the request.

Mrs. Bellido moved, seconded by Mr. Lopez, to grant CMS10-07: Fish Furniture of 23770 Lorain Road a special permit to add to a non-conforming building, Section 1165.02(b) which was approved 4-0.

Mrs. Bellido moved, seconded by Mr. Lopez to grant CMS10-07: Fish Furniture of 23770 Lorain Road the following variances:

- 1. A 20% variance for excessive lot coverage; code permits a maximum of 25%; applicant shows 45%, Section 1139.05.**
- 2. A variance for 34 parking spaces; code requires 114 parking spaces; applicant shows 80 parking spaces, Section 1161.05.**
- 3. A variance to alter, enlarge, or add to a non-conforming building; code requires addition to comply with setback, yard coverage and height requirements, applicant shows addition exceeds lot coverage, Section 1165.02(b)(1).**

The motion was approved 4-0.

CMS10-08: Retail Bank; 25775 Lorain Road:

Request for variance (1123.11). Proposal consists of new building and signage. The following variances are requested:

1. A variance for 3 additional ground signs on a lot; code permits 1, applicant shows 4, Section 1163.27(a).
2. A 150 foot variance for ground signs too close to each other (sign J to sign H); code requires 200 ft, applicant shows 50 ft, Section 1163.27(a).
3. A 15 foot variance for ground signs too close to each other (sign J to sign G); code requires 200 ft, applicant shows 185 ft, Section 1163.27(a).
4. A 55 foot variance for ground signs too close to each other (sign G to sign H); code requires 200 ft, applicant shows 145 ft, Section 1163.27(a).
5. A 155 foot variance for ground signs too close to each other (sign I to sign J); code requires 200 ft, applicant shows 45 ft, Section 1163.27(a).
6. A 110 foot variance for ground signs too close to each other (sign I to sign H); code requires 200 ft, applicant shows 90 ft, Section 1163.27(a).

7. A 10 foot variance for ground signs too close to each other (sign I to sign G); code requires 200 ft, applicant shows 190 ft, Section 1163.27(a).
8. A 15 foot variance for ground signs too close to side property line (sign I); code requires 20 ft, applicant shows 5 ft, Section 1163.27(b).
9. A 15 foot variance for ground signs too close to side property line (sign G); code requires 20 ft, applicant shows 5 ft, Section 1163.27(b).
10. A variance for a ground sign within the 35 foot line of sight triangle; code does not permit, applicant shows sign I within the triangle, section 1163.14 (a).
11. A 10½ inch variance for a wall sign taller than code allows (sign A); code permits 4 ft, applicant shows 4 ft 10½ inches, Section 1163.28(c).

Note: 1. monument sign (J), ATM drive up sign (G), Do not enter/stop sign (H), Do not enter/Right turn only (I). 2. Added sign (I) onto property. 3. Light poles lowered to meet code.

David Behrens with Greenberg Farrow was sworn in and said he represented the bank. There is a monument sign which meets code and three directional signs which are needed for safety. There are two points of egress: one will be a right turn only which includes a double face directional sign (do not enter/right turn only). The sign in front of the drive through canopy is a double face (do not enter/stop sign). The third sign is along the west property line to direct vehicles to the drive through. The other variances are due to the proximity of the ground signs to each other which is due to the size of the lot. The only wall sign will require a 10½ inch variance due to the logo and sign being stacked; if the signs were side by side it would exceed the square footage allowed for the wall sign.

Ms. Rudolph asked if the canopy sign would be removed and Mr. Behrens said that although it was discussed his client has requested it remain. Ms. Rudolph asked if the east sign could be placed outside the 35 foot triangle. Mr. Behrens said the sign would not serve its purpose outside the triangle. A brief discussion ensued pertaining to conditioning variance approval upon the canopy sign being removed and Mr. Gareau advised that the canopy sign was a legal sign and its removal could not be a condition of variance approval. However, the presence of the canopy sign could affect how the board looks at the need for a wall sign variance.

Mr. Mitchell said it is not uncommon for small sites to request directional signs which are needed for safety. The east sign within the triangle is warranted and the wall sign is two signs stacked and boxed in. Most of the variances requested are due to the proximity of the ground signs to each other which is unavoidable. Ms. Wenger said that if the Planning Commission and City Council approve a driveway scenario which is right turn exit only, the city needs to provide relaxation of the code to ensure safe traffic movement. Therefore she believes the directional signs have merit however she feels that a monument sign, canopy sign and wall sign each facing the street does not make a case for additional wall sign height.

Mrs. Bellido said although there are multiple variances for the directional signs they are warranted as the lot is small and safe traffic flow is important. The wall sign should meet code as there appears to be enough signs. Mr. Lopez said although there are many variances they are needed to direct traffic safely. The wall sign is not warranted as there is a canopy sign in the same sight line. All board members agreed that the variances for the ground signs were warranted but the wall sign variance was not due to the canopy sign proximity. Mrs. Diver felt

that the safety issues outweighed the number of variances requested. Ms. Rudolph agreed that directional signs were warranted but the wall sign height is not. Mr. Gareau suggested the applicant be allowed to address the board's concerns regarding the canopy sign. Mr. Behrens said the wall sign is due to the logo being above the sign and if they are any closer it would not look proportionate. They will remove the canopy sign.

Mr. Lopez moved, seconded by Mrs. Diver, to grant the following variances to CMS10-08: Retail Bank of 25775 Lorain Road:

- 1. A variance for 3 additional ground signs on a lot; code permits 1, applicant shows 4, Section 1163.27(a).**
- 2. A 150 foot variance for ground signs too close to each other (sign J to sign H); code requires 200 ft, applicant shows 50 ft, Section 1163.27(a).**
- 3. A 15 foot variance for ground signs too close to each other (sign J to sign G); code requires 200 ft, applicant shows 185 ft, Section 1163.27(a).**
- 4. A 55 foot variance for ground signs too close to each other (sign G to sign H); code requires 200 ft, applicant shows 145 ft, Section 1163.27(a).**
- 5. A 155 foot variance for ground signs too close to each other (sign I to sign J); code requires 200 ft, applicant shows 45 ft, Section 1163.27(a).**
- 6. A 110 foot variance for ground signs too close to each other (sign I to sign H); code requires 200 ft, applicant shows 90 ft, Section 1163.27(a).**
- 7. A 10 foot variance for ground signs too close to each other (sign I to sign G); code requires 200 ft, applicant shows 190 ft, Section 1163.27(a).**
- 8. A 15 foot variance for ground signs too close to side property line (sign I); code requires 20 ft, applicant shows 5 ft, Section 1163.27(b).**
- 9. A 15 foot variance for ground signs too close to side property line (sign G); code requires 20 ft, applicant shows 5 ft, Section 1163.27(b).**
- 10. A variance for a ground sign within the 35 foot line of sight triangle; code does not permit, applicant shows sign I within the triangle, section 1163.14(a).**

The motion was approved 4-0.

Mr. Lopez moved, seconded by Mrs. Bellido, to grant CMS10-08: Retail Bank of 25775 Lorain Road a 10½ inch variance for a wall sign taller than code allows (sign A); code permits 4 ft, applicant shows 4 ft 10½ inches, Section 1163.28(c). Roll call: Rudolph – yes; Lopez, Diver, Bellido – no; motion failed 1-3.

CMS10-09: Sprinter Vans of NO; 28595 Lorain Road:

Request for variance (1123.11). Proposal consists of site improvements and the following variances are required:

- 1. A variance for the display of merchandise within the required front building setback; code requires 75 ft, applicant shows 17 display vehicles within the front setback, Section 1139.07.**
- 2. A 7 foot 6 inch variance for new stainless steel glass façade within the 75 foot building setback; code requires 75', applicant shows 67 ft 6 inches, Section 1139.07.**
- 3. A 3 foot 6 inch variance for new stainless steel glass canopies along east and west sides of new entrance being within 75 foot building setback; code requires 75', applicant shows 71' 6", Section 1139.07.**

Denver Brooker with Forum Architects was sworn in and said the owner was converting an existing building into a new dealership. The plan includes developing a section of the undeveloped parcel to the east, consolidating both parcels into one, and minor building modifications. The variance for the 17 display cars is due to the riparian setback and only one third of the lot can be developed. Seven vehicles will be displayed on pads along the front of the property and ten parking spaces are for display/inventory. Landscaping will be used to tie the two lots together and make them consistent with the dealerships across the street. The variance for the building is due to the 2 foot 6 inch building addition and the glass canopies which extend beyond the new entrance an additional 5 feet. The building extension is a minor request considering the outcome of the project. The canopies are stainless steel and glass which will be very light and help achieve a high end appearance.

Mr. Mitchell said the east lot will be used to display vehicles and the front west parking is for customers and employees. The front entrance will be built out 2 feet 6 inches and includes a canopy which will extend an additional 5 feet beyond the wall. The window canopies will extend 3 feet 6 inches beyond the new entrance. He noted that the applicant did a good job maintaining green space and saving as many trees as possible. Mr. Lopez asked how common it was for dealerships to have multiple vehicles displayed and Mr. Mitchell said it was common. His only concern is that customer parking is maintained as such.

Ms. Wenger said she supports the request for the vehicle display areas. The applicant shows the required setback and included extensive landscaping which is consistent with his dealerships across the street and has worked to preserve as much green space as possible. Also about one-third of the east lot is unusable. The building variances are warranted as the canopies are elegant and enhance the building. The building will become non-conforming as it encroaches into the setback so will not set future precedence for expanding as any addition would require they return for a variance and special permit. The building encroachment itself is minimal but the architectural affect it will have on the site will be significant.

Ms. Rudolph read a letter from a neighbor with concerns that lighting would adversely affect their property and requested some type of buffering to ensure glare is minimal. Mr. Mitchell said the photometric plan shows the readings meet code requirements but the applicant can provide shields or use lower wattage bulbs. Mr. Gareau advised the board to forward the letter to the BZD committee to address the concerns as such matters were within their jurisdiction.

Mr. Lopez said he didn't object to the 17 display vehicles and the addition to the building will enhance the entire area. The board should look at lighting for the neighbors and forward the letter to council to ensure the neighbors are not adversely impacted. Mrs. Diver said the requests are not excessive and she does not object to the request. Mrs. Bellido said the enhancement will benefit not only the applicant but the city as well. Ms. Rudolph asked if any approvals should be based upon lot consolidation and limiting the type of vehicles which can be displayed. Mr. Gareau said Planning recommended approval based on lot consolidation and he would not recommend conditioning what type of vehicles could be displayed. Ms. Wenger said the display area is not in front of the building, will not impede visibility nor distract from the buildings appearance as the majority of the displayed vehicles are on the vacant lot.

Mr. Lopez moved, seconded by Mrs. Bellido, to grant CMS10-09: Sprinter of 28595 Lorain Road a variance for the display of merchandise within the required front building setback; code requires 75 ft, applicant shows 17 display vehicles within the front setback, Section 1139.07. Roll call: Rudolph, Diver, Bellido – yes, Lopez – no; motion approved 3-1.

Mrs. Diver moved, seconded by Mr. Lopez, to grant CMS10-09: Sprinter of 28595 Lorain Road the following variances:

- 1. A 7 foot 6 inch variance for new stainless steel glass façade within the 75 foot building setback; code requires 75', applicant shows 67 ft 6 inches, Section 1139.07**
- 2. A 3 foot 6 inch variance for new stainless steel glass canopies along east and west sides of new entrance being within 75 foot building setback; code requires 75', applicant shows 71' 6", Section 1139.07. The motion was approved 4-0.**

CMS10-10: Stop on Inn; 29352 Lorain Road:

Request for variance (1123.11). Proposal consists of new outdoor patio. The following variances are requested:

1. A 25 foot variance for business activity within required 75 foot front building setback; code requires 75 ft, applicant shows 50 ft, Section 1139.07 (see note).
2. A 25 foot variance for a fence constructed within front yard setback; code requires 75 ft, applicant shows 50 ft, Section 1139.07.

Note: Alcohol consumption in the outdoor patio area must be approved by division of alcohol.

Chuck McGettrick, architect; Mike Beech and Jim Randal, operators; Joe Nemer, property owner; and Steve Konig, neighbor, were sworn in. Mr. McGettrick said they are requesting to build an outdoor patio on a building which has an 86 foot front setback. The fenced patio encroaches 26 feet into the front setback requiring the variances. The patio is needed to accommodate summer patrons. Mrs. Diver asked how many patrons the patio would seat and Mr. McGettrick said 24 with six tables. Mrs. Diver asked how the west driveway would be affected by the patio. Mr. McGettrick said the west area was not a driveway in fact safety forces prefer the drive not be used. Ms. Rudolph questioned the distance from the west neighboring building to the patio and Mr. McGettrick said the building is the old fire station. Mrs. Diver asked how many parking spaces would be added. Mr. McGettrick said parking would go from 45 spaces to 64 spaces and reviewed their locations noting the front included three accessible spaces. Ms. Rudolph questioned the distance from the fence to the front parking spaces. Mr. McGettrick said the distance is about a 24 feet. Ms. Rudolph asked if the bar was expanding into the east space which is vacant and Mr. McGettrick said no. Mrs. Diver asked why the patio was being added to the front. Mr. McGettrick said the front was chosen to contain customers in the front so they are visible to safety forces and minimize noise levels along the back. Mrs. Bellido asked if the patio would be connected to the building. Mr. McGettrick said the fence will be a three sided fence of which the west side will be connected to the building and the east side will remain open. Mr. Nemer said he is trying to enhance the building and presented the board with a letter stating they would have all maintenance issues addressed and noted that he hired someone to maintain the site weekly.

Mr. Mitchell said in discussions with the safety forces they prefer the west drive not be used and noted that the rear parking lot being expanded will make the site more accessible. There should

be bollards or something along the northwest drive to ensure traffic does not use the drive. Ms. Wenger said there had been discussions of placing the patio along the rear or side of the building however the least amount of impact upon the residents could only be achieved in front.

Ms. Rudolph read a letter from an abutting neighbor objecting to the variances due to the noise levels increasing and the impact the plaza on the value of their homes, noting variances would change the character of the neighborhood and increase patrons wandering in their backyards from the bar. The plaza is not well maintained and trash blows into their yards all the time. Expanding the parking lot entails removing trees and being closer to the residents which will adversely impact their homes. Limiting traffic to the east drive will require all rear vehicles leaving to turn around thereby shining headlights into their windows. They request all variances be denied. Mr. McGettrick said there will still be an additional 50 feet of woods beyond the parking. Mr. Gareau said Planning and Council would address property maintenance issues and advised the board to only address those items pertinent to the variances requested. Mr. Randal said putting the patio along the front will keep the patrons in the front so it could help keep people from wandering into yards.

Mr. Lopez understood the request for the patio but the proximity of the patio to the front drive aisle is not safe and placing a patio in the parking lot will not enhance the site. The character of the neighborhood will be adversely affected. Mrs. Bellido felt the variances were substantial and the proposal would impact the neighbors. Mrs. Diver said the property could continue to receive a reasonable return without a variance and the variance is substantial for its location. The patio location will create safety issues. Increasing the rear parking lot and adding front outdoor seating will increase the noise and foot traffic of both the front and rear of the site. The property owner purchased the site with knowledge of the zoning restrictions and the spirit and intent behind the zoning code would not be upheld granting the variances. Mr. Konig said during the summer months they can not keep their windows open due to the noise from the bar. Increasing the outdoor activities will increase the noise levels and increase traffic. Although he does not object to a patio there is no way to have a patio without affecting the neighbors. Ms. Rudolph understood the need to stay competitive but the variances are substantial, the character of the neighborhood would change and a patio doesn't enhance the plaza and may create more issues.

Mr. Lopez moved, seconded by Mrs. Diver to grant CMS10-10: Stop on Inn of 29352 Lorain Road the following variances are requested:

- 1. A 25 foot variance for business activity within required 75 foot front building setback; code requires 75 ft, applicant shows 50 ft, Section 1139.07 (see note).**
- 2. A 25 foot variance for a fence constructed within front yard setback; code requires 75 ft, applicant shows 50 ft, Section 1139.07.**

The motion was denied 0-4.

COMMUNICATIONS

Mrs. Diver moved, seconded by Mrs. Bellido, to excuse the absence of Nancy Sergi which was approved 4-0.

Ms. Rudolph said the May 6, 2010 meeting will include a 7:00 pm caucus to review the board's revised rules and application.

ADJOURNMENT

With no further business the meeting adjourned at 9:45 p.m.

Jennifer Rudolph, Vice Chair

Donna Rote, Clerk of Commissions

Approved:
