

**BOARD OF ZONING APPEALS
CITY OF NORTH OLMSTED
MEETING MINUTES OF SEPTEMBER 2, 2010**

ROLL CALL

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

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

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

REVIEW AND CORRECTION OF MINUTES

Mrs. Diver requested the minutes of August 5, 2010 be amended to reflect that she requested to see detailed development plans from the mall if the time extension was not for what was previously approved. Mr. Gareau advised the board as to how they would approve amended minutes.

Ms. Rudolph moved, seconded by Mr. Lopez, to approve the August 5, 2010 minutes subject to Mrs. Diver's amended request which was approved 5-0.

RESIDENTIAL APPEALS AND REQUESTS

Scott Dusenbury; 4162 Canterbury Road:

Request for variance; proposal consists of a fence and the following variance is requested:

1. An 18" height variance for a fence higher than code allows within neighbors 50 foot setback on a corner lot; code permits 30", applicant shows 48", Section 1135.02(f)(2).
2. A variance for a fence less than 50% open within neighbors 50' setback on a corner lot; code requires 50%, applicant shows less than 50%, Section 1135.02(f)(1).

Mr. Dusenbury was sworn in and presented his request to install a 4 foot solid stained wood fence to protect and restrain his dog in the yard and protect the children who pass by his corner lot. Building Commissioner Mitchell questioned the exact distance of the fence from the sidewalk, which will be 14 feet from the inside face of the sidewalk and reviewed the good neighbor requirements which the applicant agreed to adhere to. A shadowbox style fence would meet the 50% open however it would not provide the separation and protection for the dog or school children the applicant is seeking. There were different opinions of board members regarding the style of fencing that should be installed but it was agreed that the placement would not impede the line of sight of vehicles nor adversely affect the neighborhood. Board members had no objections to the 4 foot fence height but remained split about the style of fence to install.

Ms. Rudolph moved, seconded by Mrs. Bellido to grant Scott Dusenbury of 4162 Canterbury Road the following variances:

1. An 18" height variance for a fence higher than code allows within neighbors 50 foot setback on a corner lot; code permits 30", applicant shows 48", Section 1135.02(f)(2).

2. A variance for a fence less than 50% open within neighbors 50' setback on a corner lot; code requires 50%, applicant shows less than 50%, Section 1135.02(f)(1).

Roll call: Rudolph, Bellido, Lopez – yes; Sergi, Diver – no; motion approved 3-2.

Variances granted.

Kurt Gillberg; 6054 Burns Road:

Request for variance; proposal consists of a three season room and detached garage and the following variances are requested:

1. A 10 foot rear yard variance for residence to close to rear property line (note #1); code requires 50', applicant shows 40', Section 1135.05(a).
2. A 5 foot rear yard variance for a detached garage to close to rear property line; code requires 10', applicant shows 5', Section 1135.02(c)(2).
3. A 5 foot variance for a garage too close to residence (note #2); code requires 15', applicant shows 10', Section 1135.02(c)(2).
4. A 40 square foot variance for exceeding rear yard coverage, Section 1135.02(d)(3).

Notes: 1. Variance is to build a sunroom on existing dwelling. 2. Variance required for new garage if sunroom is approved, existing shed is to be removed if garage is granted.

Mr. Gillberg was sworn in and presented his request to construct a three season room which does not include electricity or heating and cooling and would be used as a mud room and entry into the home. In the future he would like to install a 24' x 24' garage which he wishes to place five feet off the rear property line and noted that any garages found in the area are placed in the same manner as the lots are small. Due to the size of his lot a variance for distance between garage and home is needed as well as for exceeding lot coverage which is unavoidable. The existing shed will be demolished once the garage is completed. Mr. Mitchell reviewed the variances required and the request of doing the work in phases, however no completion date has been provided. The distance between the home and garage is not a safety issue but would require fire rated walls. He noted that garages throughout the neighborhood were positioned in the same manner and required to have downspouts tied into the existing storm lines. Mr. Lopez was concerned that once a variance is granted for the room addition the space could later be converted into a living space which is not warranted. Mr. Mitchell preferred that the garage be reduced in size to eliminate exceeding lot coverage and noted that if variances are granted they are only good for one year. Law Director Gareau advised the board to separate the two issues during the motion. Mr. Gillberg said he would reduce the garage size to 22' x 24' to eliminate the lot coverage variance and depending on how the garage is placed it could eliminate the variance for distance from home as well. The majority of board members did not object to the variances as amended due to the size of the lot, it would be in line with the surrounding neighborhood and enhance property values. Garages are required for all lots however due to the age of the neighborhood they were not taken into consideration when the lots were drawn. A brief discussion ensued pertaining to possible future outcomes and zoning laws which are in place to ensure all current and future possibilities are governed.

Ms. Rudolph moved, seconded by Mrs. Bellido to grant Kurt Gillberg of 6054 Burns Road a 10 foot rear yard variance for residence too close to rear property line; code requires 50', applicant shows 40', section 1135.05(a) which was approved 4-1, Mr. Lopez voted no.

Ms. Rudolph moved, seconded by Mrs. Bellido to grant Kurt Gillberg of 6054 Burns Road the following variances for a future detached garage as amended:

- 2. A 5 foot rear yard variance for a detached garage to close to rear property line; code requires 10', applicant shows 5', section 1135.02(c)(2).**
- 3. A variance no greater than 5 feet for a garage too close to residence (#2); code requires 15', applicant shows under 15', section 1135.02(c)(2).**

The motion was approved 4-1, Mr. Lopez voted no.

NON RESIDENTIAL APPEALS AND REQUESTS

CMS09-05 WEA Great Northern Mall, LLC; 4954 Great Northern Mall:

Request for an extension of time from August 6, 2009 approval date. Code states ruling, determination or order of BZA expire one year from the effective date of such ruling, determination or order, Section 1123.15. Note: BZA tabled 8/5/10.

Evan Vlaeminck, Westfield Development Manager, and Chris Barnett, Senior Vice President, were sworn in and accompanied by Tony Vacanti, Attorney. The applicants said they were seeking an extension of time for the previously granted variances. They noted both the Planning and Design Commission and City Council granted their request for an extension of time based upon the unique characteristics of the property since meeting with the board in August. All previous testimony and evidence of hardships and findings of the August 2009 BZA meeting are still in place and have not changed. Taking into consideration that the board had found that the unique characteristics and hardships of the site warranted the 19 variances granted they are seeking a one-year time extension. There has been no change to the previously approved plans however economic circumstances are such that they are not in a position to start the project. The mall is, has and will continue to work hard towards completing the project as presented and approved. There has been a substantial investment in the preparation and leasing of the approved project. The portion of the mall's approved plan is such that they can not move forward until the major tenant does.

Mr. Mitchell said the mall had quite an undertaking bringing the project before the city last year due to the site having multiple owners and cross easements which had to be addressed prior to submittal. The mall has been working hard to maintain their current tenants and are working to bring about the approved new look at the mall. Mr. Gareau advised the board as to how they should proceed and address the request. Ms. Wenger said the administration supports the time extension for the project, which is an economically significant project which is complex due to the number of tenants and owners involved in the project. The applicants request is reasonable and is the same development project which was approved in 2009. If there are any changes to the approved plans the applicants will have to resubmit for a new review. The board evaluates each case based upon its location and circumstances and in this case the time extension is clearly related to the current market conditions and project complexity.

Opinions of the board members were mixed. Mrs. Sergi was against the variances being granted in 2009 therefore opposed the time extension, and Mrs. Diver was concerned that if the major tenant changed they would not have the opportunity to review possible changes or have input in the review. Mr. Gareau advised that testimony had been given that there would be no changes to

the development plan and regardless as to the tenant if they stay within the boundary of the variances granted and approved plan there would be no reviews required. Mr. Lopez asked what assurances they have that they would not be back at the end of the time extension requesting additional time and Mr. Vlaeminck said it was not their intention to return. Ms. Rudolph and Mrs. Bellido felt due to the fact that the approved development plans had not changed nor the conditions of the site which warranted the 19 variances, the actual occupant of the development was irrelevant. However the economic conditions warrant the time extension.

Ms. Rudolph moved, seconded by Mrs. Bellido, to grant CMS09-05 WEA Great Northern Mall, LLC of 4954 Great Northern Mall a one year time extension from their August 6, 2009 approval date. Roll call: Rudolph, Bellido, Lopez – yes; Sergi, Diver – no. Motion approved 3-2. Extension granted.

CMS10-21 McDonald's; 27322 Lorain Road

Request for variance; proposal consists of new signage and the following variances are requested:

1. A variance for 7 additional wall signs; code permits 1, applicant shows 8, section 1136.28.
2. A variance for 6 additional ground signs on a lot; code permits 1, applicant shows 7, section 1136.27(a).
3. A variance for multiple ground signs closer than allowed; code requires a 200' separation, applicant shows less than 200', section 1136.27(a).

Dave Gnatowski, McDonald's area construction manager; Jim Ptacek, Larson Architects; and Steve Payne, owner, were sworn in. The applicants reviewed the history of the existing restaurant. The new look includes a sign package which significantly decreases the number of signs on and around the building and while they still require variances for the number of signs, they are below the total square footage allowed for the building. The applicant reviewed for the members each of the existing signs to be eliminated as well as those signs being introduced and noted that they are decreasing the total square footage of signage on the site by 44%. Most of the signs are located within the drive-through. Both the east and west entrances will include non-illuminated welcome signs over the doors noting the east entrance will have two. It was noted that each of the Planning & Design Commission recommendations were incorporated into the new plan.

Mr. Mitchell commended the applicants in their effort to decrease the amount of signage on the site. The variances being sought are not significant and one of them deals with the majority of drive-through signs being less than 200 feet from each other. Ms. Wenger advised that although city codes require members to be content neutral in their review of all signage, it is clear in sites which have drive-throughs and one way traffic the proposed ground signs are warranted. She supported the applicant's request. All board members supported the decrease in signage and meeting the area requirement for signage. Several members were concerned about the welcome signs over the entrances. Members said the proposed new look welcoming and looked forward to seeing the project completed. The applicants agreed to remove two of the three welcome signs from the building. The board preferred the east elevation signs be removed.

Ms. Rudolph moved, seconded by Mr. Lopez to grant CMS10-21 McDonald's of 27322 Lorain Road the following variances as amended and agreed upon:

1. A variance for 5 additional wall signs; code permits 1, applicant shows 6, section 1136.28.
2. A variance for 6 additional ground signs on a lot; code permits 1, applicant shows 7, section 1136.27(a).
3. A variance for multiple ground signs closer than allowed; code requires a 200' separation, applicant shows less than 200', section 1136.27(a).

The motion was approved 5-0.

COMMUNICATION

Mrs. Diver requested the clerk provide a cover sheet which reflects each cases write-up. Members had a discussion pertaining to the manner in which they are addressed by both city staff and each other and possible ways in which communication between staff and members could be improved. Mr. Gareau assured members that neither he nor city staff would ever intentionally want to offend or put a member in a position of feeling uncomfortable or disrespected and suggested possible ways in which members could address each other and staff.

ADJOURNMENT

With no further business the meeting was adjourned at 9:10 p.m.

Nancy Sergi, Chair

Donna Rote, Clerk of Commissions

Date Approved:
